Supreme Court, U. S.
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APPENDIX

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-765

INTERNATIONAL LADIES' GARMENT WORKERS' UNION, UPPER SOUTH DEPARTMENT, AFL-CIO, *Petitioner*

v.

QUALITY MANUFACTURING COMPANY and NATIONAL LABOR RELATIONS BOARD

On Writ of Certorari to the United States Court of Appeals for the Fourth Circuit

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PETITION FOR CERTIORARI FILED NOVEMBER 12, 1973
CERTIORARI GRANTED APRIL 29, 1974

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APPENDIX

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF TRIAL EXAMINERS
WASHINGTON, D. C.

Case No. 9-CA-5576

In the Matter of

QUALITY MANUFACTURING COMPANY

and

UPPER SOUTH DEPARTMENT, INTERNATIONAL LADIES' GARMENT WORKERS' UNION, AFL-CIO

Cassius B. Gravitt, Jr., Esq. for General Counsel, NLRB.

Bernard W. Rubenstein, Esq., Baltimore, Md., for the Charging Party.

John E. Jenkins, Esq., Huntington, W. Va., for the Respondent.

Chronological List of Relevant Docket Entries

3.19.70 Charge filed.

5.25.70 Complaint & notice of hearing, dated.

6.4.70 Respondent's answer, received.

7.10.70 Order postponing hearing dated.

8.5.70 Hearing opened.

8.6.70 Hearing closed.

10.23.70 Trial Examiner's Decision, issued.

11.17.70 Respondent's exceptions, received.

1.28.72 Decision and Order issued by the National Labor Relations Board, dated

7.19.73 Decision of the Court of Appeals for the Fourth Circuit, dated.

7.19.73 Judgment entered by the Court of Appeals for the Fourth Circuit, dated.

4.29.74 Order of the Supreme Court granting certiorari, dated.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 9

Case No. 9-CA-5576

[Caption Omitted]

Complaint and Notice of Hearing

It having been charged by Upper South Department, International Ladies' Garment Workers' Union, AFL-CIO, herein called the Charging Party, that Quality Manufacturing Company, herein called Respondent, has engaged in and is engaging in unfair labor pretices affecting commerce as set forth and defined in the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151, *et seq.*, herein called the Act, the General Counsel of the National Labor Relations Board, herein called the Board, on behalf of the Board, by the undersigned Regional Director for Region 9, pursuant to Section 10(b) or the Act and Section 102.15 of the Board's Rules and Regulations, Series 8, as amended, hereby issues this Complaint and Notice of Hearing and alleges as follows:

1. The charge was filed by the Charging Party on March 19, 1970, and was served on Respondent by registered mail on March 20, 1970.

2. (a) Respondent is a West Virginia corporation engaged in the manufacture of women's clothing at its plant located at Point Pleasant, West Virginia.

(b) During the past 12 months, which is a representative period, Respondent had a direct outflow of products in interstate commerce, valued in excess of $50,000, which it sold and shipped directly from its Point Pleasant, West Virginia plant to customers located outside the State of West Virginia.

(c) At all times material herein, Respondent is and has been an "employer" as defined in Section 2(2) of the

Act, engaged in "commerce" and in operations "affecting commerce" as defined in Section 2(6) and (7) of the Act, respectively.

3. At all times material herein, the Charging Party is and had been a labor organization as defined in Section 2(5) of the Act.

4. At all times material herein, the following-named persons were employed by Respondent and occupied the positions set opposite their respective names and are, and have been, agents of Respondent, acting on its behalf, and supervisors as defined in Section 2(11) of the Act:

Lawrence R. Gerlach, Sr., President
Mary Kathryn Gerlack, Production Manager
Lawrence R. Gerlach, Jr., General Manager
Helen Rice, Floor Lady

5. All production and maintenance employees of Respondent at its Point Pleasant, West Virginia plant, excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act, constitute a union appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

6. On or about October 24, 1968, a majority of the employees of Respondent in the unit described in paragraph 5, above, by a secret ballot election conducted under the supervision of the undersigned Regional Director of Region 9 of the Board, designated and selected the Charging Party as their representative for the purposes of collective bargaining with Respondent, and on or about November 1, 1968, the undersigned Regional Director on behalf of the Board, certified the Charging Party as the exclusive bargaining representative of the employees in said unit.

7. At all times since November 1, 1968, the Charging Party has been, and is now, the exclusive representative

for the purposes of collective bargaining of the employees in the unit described in paragraph 5, above, and has negotiated an existing collective-bargaining agreement with Respondent covering rates of pay, wages, hours of employment, and other terms and conditions of employment of the employees in the said unit.

8. On or about the dates indicated above, Respondent, at its Point Pleasant, West Virginia plant, unless otherwise indicated, interfered with, restrained and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act, by:

(a) The conduct of Lawrence Gerlach, Sr, on or about October 10, 1969, and at all times thereafter, in refusing to allow an employee to be represented by the Charging Party at a meeting which had been called by Respondent for the purpose of reprimanding and disciplining the employee.

(b) The conduct of Mary Kathryn Gerlach on or about October 10, 1969, in threatening to take reprisals against an employeet because of her activities on behalf of the Charging Party.

(c) The conduct of Lawrence R. Gerlach, Jr., on or about January 12, 1970, in threatening to take reprisals against an employees because of her activties on behalf of the Charging Party.

9. On or about October 16, 1969, Respondent discharged employee Catherine King and has at all times since failed and refused to reinstate her to her former position because of her engaging in concerted activities for mutual aid and protection and/or collective bargaining, and/or in order to discourage membership in and activities on behalf of the Charging Party.

10. On or about October 12, 1969, Respondent suspended employee Delilah Mulford from work for two (2) days in

order to discourage membership in and/or activities on behalf of the Charging Party, and/or because of her engaging in concerted activities for mutual aid and protection and/or collective bargaining.

11. On or about October 14, 1969, Respondent suspended employee Martha J. Cochran from work for two (2) days because of her activities on behalf of the Charging Party, and/or to discourage employee membership in or activities on behalf of the Charging Party and/or concerted activities for mutual aid or protection or collective bargaining.

12. On or about October 16, 1969, Respondent discharged said Delilah Mulford and Martha J. Cochran in order to discourage membership in and/or activities on behalf of the Charging Party, and/or because of their engaging in concerted activities for their mutual aid and protection and/or for purposes of collective bargaining.

13. On or about October 29 and until on or about November 10, 1969, Respondent did shut down its plant and laid off all employees employed in the said unit represented by the Charging Party in order to discourage employee membership in and/or activities on behalf of the Charging Party and/or in order to discourage employees from engaging in concerted activity for their mutual aid or protection or collective bargaining.

14. By the conduct alleged in paragraph 8(a) above, Respondent did refuse to recognize and/or bargain collectively with the Charging Party in good faith as the exclusive collective-bargaining representative of the employees in the unit described in paragraph 5 above.

15. By the acts and conduct alleged above, Respondent has engaged in, and is engaging in, unfair labor practices as defined in Section 8 (a)(1), (3) and (5) of the Act, affecting "commerce" as defined in Section 2(6) and (7) of the Act, respectively.

PLEASE TAKE NOTICE that on the 14th day of July, 1970, at 10 o'clock in the forenoon (EDST) in the Circuit Court Room, Mason County Court House, Point Pleasant, West Virginia, a hearing will be conducted before a duly-designated Trial Examiner of the National Labor Relations Board on the allegations set forth in the above Complaint, at which time and place you will have the right to appear in person, or otherwise, and give testimony.

You are further notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, Series 8, as amended, Respondent shall file with the undersigned Regional Director, acting in this matter as an agent of the Board, an original and four (4) copies of an Answer to said Complaint within ten (10) days from the service thereof, and that unless it does so, all of the allegations of the Complaint shall be deemed to be admitted to be true and shall be so found by the Board.

Form NLRB-4668, Statement of Standard Procedure in Formal Hearings held before the National Labor Relations Board in Unfair Labor Practice Cases, is attached.

Dated at Cincinnati, Ohio this 25th day of May, 1970.

/s/ JOHN C. GETREU
Regional Director
Region 9,
National Labor Relations
Board
2407 Federal Office Building
550 Main Street
Cincinnati, Ohio 45202

• • • • • • • • • • •

[Caption omitted]

Answer

Quality Manufacturing Company, Respondent herein, answers the Complaint as follows:

1. The Respondent admits the allegations of Sections 1 through 7, inclusive.

2. The Respondent denies the allegations contained in Section 8 through 15, inclusive.

/s/ J. E. JENKINS
Of Counsel for Respondent

JENKINS, SCHAUB N FENSTERMAKER
500 Kelly-Hatfield Building
704 Fourth Avenue
Huntington, West Virginia
Attorneys for Quality
Manufacturing Company

• • • • • • • • • •

[Caption omitted]

[Received November 17, 1970]

Exceptions of Respondent to Trial Examiner's Decision

1. The examiner erred in finding Cochran was suspended for two days beginning October 14, 1969, for pro-union activity. TXD, p. 13, lines 12-17. The entire undisputed record shows the existence of Respondent's rule against leaving work station without permission. Examiner assumes that the attempted discussion between King and Gerlach Sr. might result in a reprimand or sterner discipline. TXD, p. 13, lines 31-34. Examiner erred in refusing to permit Gerlach Sr. to testify on this subject and in refusing Respondent to make and show as an avowal of the record what said testimony would be. Tr. pp. 467-469. There is no evidence in the record to support finding that

the contract rendered ineffective said rule. TXD, p. 13, line 38 to page 14, line 9. Examiner further erred in finding meeting between King and Respondent could result in reprimand or severer discipline and erred in finding meeting did not seek information. TXD, p. 14, lines 11-24. Examiner has misinterpreted and failed to apply doctrine of *Texaco Co. Jacobs, Pearson Ford, Inc.*, and *Chevron Oil Co.* coted in TXD, p. 14, lines 19-24.

Examiner improperly found anti union animus. TXD, P. 14, lines 26-34, on allegations not material to issue. Employer's attitude cannot be used to resolve every factual situation adversly to Respondent.

Examiner improperly allows employees active for union to disregard plant rules. TXD p. 14, lines 36-40.

Examiner erred in finding Cochran's union activity was a reason for her suspension. TXD p. 15, lines 7-15. The record shows the only reason for her suspension was her violation of a well established rule uniformly applied to all employees to which union has never objected.

Examiner misconstrues *Socony Mobile Oil Co.* and fails to apply Emerson Electric C1. TXD, p. 15, lines 17-30.

Examiner found Cochran was discharged on October 16, 1969, when entire evidence in record is to contrary. TXD p. 15, lines 31 to page 16 line 32.

Examiner improperly concludes Cochran suspension violated Sec. 8(a)(1) and (3) of the Act because no evidence supports this conclusion and the evidence shows she was suspended for one afternoon only and thereafter failed to return to work by her own choice.

2. Examiner erred in finding Delila Mulford was suspended in violation of the Act. TXD p. 16, lines 43-50. There is no evidence in the record other that than her violation of Company rule of leaving work without per-

mission resulted in her suspension. None of the evidence cited by the examiner supports his conclusion. TXD p. 17, lines 4-38. Examiner incredibly finds Respondent had no express rule against leaving work station without permission. All witnesses recognized the existence of this rule. TXD p. 17, line 38 to page 18, line 12. Examiner erred in finding Mulford was discharged when evidence is entirely to contrary. TXD, p. 18, lines 14-35.

3. Examiner erred in finding King was discharged for protected activity. The examiner finds incorrectly that Mr. Gerlach Sr., could not have an investigatory discussion with King because examiner finds that Mrs. Gerlach was a witness. This is a complete fallacy adopted by the examiner to avoid the rule of *Texaco, Inc.* TXD, p. 18, line 41 to page 19, line 14. Examiner's finding that King could refuse to speak to management without union representation is contrary to all cited authorities in TXD. TXD, p. 19, lines 21-28. The examiner finds King was discharged when she left plant on her own decision. TXD p. 19, line 30 to page 21, line 9.

4. Consistent with the foregoing, the Respondent excepts to examiner's conclusions of law nos. 3, 4, and 5. TXD p. 24, lines 9-20.

/s/ JOHN JENKINS
Of Counsel for Respondent

JENKINS, SCHAUB AND FENSTERMAKER
Attorneys for Quality Manufacturing Company
Post Office Box 1457
Huntington, West Virginia 25716

• • • • • • • • • • •

[CERTIFICATE]

Excerpts from Transcript of Proceedings

[1] BEFORE THE NATIONAL LABOR RELATIONS BOARD

Ninth Region

Case No. 9-CA-5576

Circuit Courtroom
Second Floor
County Courthouse
Point Pleasant, West Virginia
Wednesday, August 5, 1970

• • • • • • • • • • •

[5] PROCEEDINGS

Trial Examiner Constantine: The hearing will be in order.

This is a formal hearing in the matter of Quality Manufacturing Company, Case Number 9-CA-5576, before the National Labor Relations Board.

The Trial Examiner designated to hear this case is James V. Constantine.

There will be no opening statements, gentlemen, in view of the fact that we knoww about all of these cases. We are experienced counsel. And also under the Board's revised practice a statement of procedures are now mailed to the parties will enter their appearances for the record.

At this time counsel and other representatives for the parties.

For the General Counsel?

Mr. Gravitt: Cassius B. Gravitt, Jr., Region Nine, 550 Main Street, Cincinnati, Ohio.

Mr. Rubenstein: For the Charging Party, Bernard W. Rubenstein, 10 Light Street, Baltimore, Maryland 21202.

Trial Examiner: Would you please identify the Charging Party? I know who it is.

Mr. Rubenstein: The Charging Party is the International Ladies' Garment Workers' Union, Upper South Department.

Trial Examiner: Now go ahead, Mr. Jenkins.

Mr. Jenkins: May the record show John E. Jenkins, [6] Post Office Box 1457, Huntington, West Virginia, 45796.

Trial Examiner: Go ahead, Mr. Gravitt, in this proceeding.

Mr. Gravitt: Your Honor, I offer into evidence the formal papers. They have been marked as General Counsel's Exhibits 1(a) through 1(h); 1(h) being the index and description of the formal documents.

They have already been shown to parties.

Trial Examiner: I assume there is no objection.

Mr. Rubenstein: No.

Trial Examiner: These papers have been served on the parties.

Mr. Jenkins: The Respondent has no objection.

Trial Examiner: All right. Thank you. I will admit them into evidence in the absence of objection.

Mark them received, Mr. Reporter.

(The above-referred to documents were marked General Counsel's Exhibits Nos. 1(a) thru 1(h) for identification and were received.)

• • • • • • • • • •

[7] **Joel Goolst**

was called as a witness by and on behalf of the General Counsel and, after being first duly sworn, was examined and testified as follows:

• • • • • • • • • •

DIRECT EXAMINATION

Q. (By Mr. Gravitt) Would you state your address, please? A. 10927 Battersey Lane, Columbia, Maryland.

Q. And you are associated with the union in this case? A. Yes. sir.

Q. In what capacity, sir? A. I am the union's organizing director in this region.

Q. Are you familiar with the plant of the Respondent here in Point Pleasant? A. Yes, sir.

Q. That come under your jurisdiction and supervision? A. As the organizing director it came under my—

Q. I see. A. —jurisdiction.

• • • • • • • • • •

[9] Q. (By Mr. Gravitt) And then did you later negotiate a contract? A. Yes, sir.

Q. And were you on the negotiating committee? A. Not officially.

Q. Do you recall Martha Cochran, if she was on the committee? A. Yes, sir.

• • • • • • • • • •

[13] Q. (By Mr. Gravitt) Now, on December the 3rd, just tell us about the conversation, about the discharges, sir, layoff, or any discussion you had.

• • • • • • • • • •

Trial Examiner: The record will show December 3rd.

Mr. Jenkins: Very good.

Mr. Gravitt: Go ahead and tell us about it.

The Witness: The conversation took place in Mr. Gerlach, Jr., office in the plant about ten a.m. in the morning. And the conversation was based on the three discharged employees.

• • • • • • • • • •

[14] The Witness: The union's position, which I presented at the time, Mrs. Wiley was with me at the time,

she is a business agent with the union, was that we would like to have the employees reinstated.

Q. (By Mr. Gravitt) What did he say? A. He said "No." We discussed it further and he said that it would be hard for the family to live with these people back in the factory.

Q. Did he tell you why? A. He said that they were abusive and that he had a number of problems with Catherine King, for one, who for twenty-five years had talked directly to the family and had been a friend of the family and he had gone to school with, all of a sudden decided that she needed somebody else in the office when she presented her grievance.

Did he say who this somebody else was during the conversation? A. I really don't remember.

Q. Was the union mentioned? A. The union was mentioned by me and also by him?

Q. What was said about the union? A. Well, he gave [15] me his position on how he felt about the union.

Q. Just tell us what he said. A. For all the time. He told me that he didn't want a union, that he never wanted a union, that he hoped we would come into town with another factory and open up another factory and take the union people there and he could run his business without a union. This has been his position all along.

Q. And did he tell you that on December 3rd? A. Oh, yes.

• • • • • • • • • •

Q. (By Mr. Gravitt) Now, did he mention grievances? A. He mentioned grievances and he mentioned grievances in the context of the contract. And he said he doesn't understand why it has to be any written grievances and why people couldn't come and talk to him as they have done in the past before the union came around.

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[16] Q. (By Mr. Gravitt) Did he make this statement to you more than one time during this meeting? A. Yes.

• • • • • • • • • •

Mr. Gravitt: How many times?

• • • • • • • • • •

The Witness: Four, five, six times. The conversation just went round and around and around and came back.

• • • • • • • • • •

[17] Q. (By Mr. Gravitt) Now, do you recall anything else he said that you haven't told us? A. Well, we talked about the possibility of a case. And he said that he was not interested in the case and if we did go into a court of any kind that he felt that he had enough proof that the three people would not win the case.

And I must, I don't know. He then brought down the proof. He brought down one of the workers from the bargaining unit.

[18] Q. Now, do you recall him telling you why he discharged King, Mulford and Cochran on this occasion?

• • • • • • • • • •

[19] The Witness: Oh, yes, sir. Yes.

• • • • • • • • • •

Q. (By Mr. Gravitt) What did he say? A. He said that he let King go, he was glad that he let King go because she would not come into the office alone. He never heard of any nonsense like that. And he let the other one go because she came off the floor. I don't remember whether it was Cochran or Mulford—

Q. Yes. A. —that he was talking about.

Q. Yes. Go ahead. A. Because she came off the floor and he said, "You know you can't come off the floor." And I said, "Well, I don't know, but if there was a grievance and she was the chairlady—Is she the chairlandy?" And he said, "Yes." And I said, "Well, she was called for," And he let them go for that reason.

And he let the other one go because she went in with King also. After he let the first one go he would not talk to King or any of the two chairladies in the shop.

Q. Now, these two people you referred to, other than King, do they hold any position with your union? A. They were chairladies.

Q. Chairladies? A. Right.

[20] Q. And does a chairlady's position relate to grievances in any way? A. Oh, yes, sir.

Q. And in what way, sir? A. The chairlady is the person who receives the grievance from the grieved employee and then takes it up with management.

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Q. (By Mr. Gravitt) Now, did he tell you what this grievance was that King had? A. No.

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[21] Q. (By Mr. Gravitt) What did he want to talk to King about? A. He didn't say what he wanted to talk to King about. At, you know, at this time I never got into what the grievances were between the employees and—

Q. It was a grievance? A. I knew there was a grievance. I never got into what the grievance was. I was really there to see whether or not we can arrange to have the people come back to work at the plant.

Q. Do you know which girl had the grievance? A. I was under the impression that it was King.

Q. Catherine King? A. Yes.

Q. Now, this was Gerlach, Jr. you were talking with? A. Yes, sir.

Q. Did you ever talk with Gerlach, Sr.? A. Yes, sir.

Q. Now, were you in the office of the Respondent on or about November 19, 1969? A. Yes, sir.

Q. And who did you talk with on this occasion? A. Gerlach, Jr.

Q. All right. Did you talk about the discharges at this [22] time? A. Yes, sir.

Q. All right. What did he tell you about the discharges?

Trial Examiner: Well, to make it short, did he tell you anything this time that was different from the time that you just talked about?

The Witness: No, sir.

Trial Examiner: All right. I will assume he is readopting his former testimony. There is no use in going into it.

• • • • • • • • • •

[25] Q. (By Mr. Gravitt) Now, on January 12th of this year did you have a discussion with Respondent?

Trial Examiner: Who is Respondent? There is a corporate—

Mr. Gravitt: Mr. Gerlach.

Trial Examiner: The owner? It's all one setup. There's more than one Gerlach. It's a Mrs., a Senior and a Junior. All three of them?

[26] Mr. Gravitt: Yes.

Trial Examiner: Was that January?

Mr. Gravitt: January 12, 1970.

The Witness: Yes, sir.

Q. (By Mr. Gravitt) And who did you talk with on this occasion? A. Junior Gerlach.

Q. Junior Gerlach? A. Yes.

Q. And where did the conversation take place? A. In his office.

Q. And who was present, if you can recall? A. Just myself.

Q. All right. You and Mr. Gerlach? A. Yes.

Q. And did you mention the three discharges on this occasion? A. Yes, sir.

Q. All right. And what did he say about them?

Trial Examiner: You have already give a conversation on December 3rd at which you mentioned the three discharges. Did he say or did you say anything different now on January 3rd than on December?

The Witness: Yes, sir.

Trial Examiner: There was a different conversation?

[27] The Witness: Yes sir.

Trial Examiner: All right.

The Witness: The company's position changed somewhat to not taking them back, at it was, as their position was previous, to there would be a possibility of taking them back if we could work something out and—

Mr. Jenkins: I object to his characterizing this testimony. In other words I want to know what was said. That is the primary evidence. And I object to these conclusionary statements of the witness and characterization.

Trial Examiner: I am going to sustain that on another ground. That is if there were attempts to compromise I am not going to hold that conversation admissible. The usual rule is if they want to compromise conversations that affects the settlement—

Mr. Gravitt: That's going the other way on it. I haven't got it clear in the record. That is a wrong inferencer on it, Your Honor. I'm sorry.

Trial Examiner: You are not going to get him to change his testimony, are you?

Mr. Gravitt: No.

Trial Examiner: He said that they were willing—

Mr. Gravitt: To work something out. That's what we haven't got in.

[28] Q. (By Mr. Gravitt) Now, did he tell you about this working something out, what it related to? A. Well, he said that they need operators, they could use good operators and these people, two of the three of them were good operators and that they would be interested in possibly taking them back if we would not press for any back money because his daddy wouldn't—

Q. What did he say about grievances? A. —pay one red cent. And that we would have to drop any of either charges or grievances that the people had against the company.

Q. Did he mention to you in any way about grievances in production? A. Well, I had said something about the fact that there had been no grievances since the time of the discharge of these three people and that if his attempt was to throw fear into the rest of the people they succeeded in doing this.

Q. What did he say? A. He said there are no grievances because the three trouble makers are out of the factory and there's no reason for any grievances. Everybody's very happy.

Q. Now, January 21st did you have another conversation with a member of Respondent's family, 1970? A. Yes, sir.

Q. And who did you talk with on this occasion? [29] A. It was Gerlach, Sr.

Q. Now, where did you talk to him? A. In his office.

Q. And who was present? A. The business agent from the union.

Q. Mrs. Wiley? A. Right.

Q. Mrs. Elizabeth Wiley? A. Yes, sir.

Q. I see. Now, what did Mr. Gerlach say to you on this occasion about the discharges? A. Mr. Gerlach, Sr. said—

Mr. Jenkins: Just one second. I again object to the use of this word "discharge." Because it has never been established.

Trial Examiner: You admit it in your answer. You admit that they were discharged, but you claim they were lawfully discharged.

Mr. Jenkins: No, we don't, Your Honor.

Trial Examiner: That's the way I read your naswer.

Mr. Gravitt: Well, the fact is that they are not there working any more and he won't let them come back.

Mr. Jenkins: Well, that is what is in dispute here. And there is no evidence in the record here on this.

Trial Examiner: In other words you contend that they [30] were not discharged?

Mr. Jenkins: Of course. That's right.

Mr. Jenkins: And I object to this constant repetition of this conclusion as a preface to these questions.

Q. (By. Mr. Gravitt) Did he tell you why these three girls weren't working on this occasion?

Trial Examiner: I'll admit that question.

The Witness: Yes.

Q. (By Mr. Gravitt) What did he say? A. He said that their conduct in the plant and their conduct to him was such that he couldn't have them back.

Q. Did he specify to you what conduct he was talking about? A. No. He did say something about the fact that since the union has been in here or been around that the people are losing respect for management and that's a very important thing.

Trial Examiner: Well, he didn't say that that was the reason why he didn't take them back, did he? The question is what language did he use in refusing to take them back.

The Witness: He said they no longer have respect.

Trial Examiner: All right.

The Witness: That's what he said.

[31] Trial Examiner: These three girls no longer have respect?

The Witness: Right.

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[32] CROSS EXAMINATION

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[36] Q. (By Mr. Jenkins) Mr. Goolst, you mentioned that Martha Cochran was on the negotiating committee. Was Mrs. King or Mrs. Mulford on the committee? A. Mrs. King attended negotiating meetings at the request of Mr. Gerlach.

Q. She was not on the committee? A. Officially no, sir. Mrs. Mulford I don't remember. I don't recall.

Q. And you say that Mr. Gerlach made a special request that Mrs. King attend the negotiating sessions and that this request apparently was acceeded to and she did, in fact,

attend union negotiating meetings? A. I would say the Union had no choice.

Q. I didn't ask you for your conclusion as to whether the union has a right to determine its own negotiating committee or not.

[37] Trial Examiner: Did the union consent to Mr. Gerlach's request?

The Witness: That Mrs. King be at the meetings?

Trial Examiner: Yes.

The Witness: Yes; but not as a representative of the union.

Trial Examiner: All right.

Q. (By Mr. Jenkins) Then Mrs. King then was there as a representative of the company during the negotiating meetings, right? A. Sir, I don't want to argue with you.

Trial Examiner: Just answer the question.

The Witness: Number one, I was not there. Since I was not there I would have no idea of why she was there. She was not there as a representative of the union.

Q. (By Mr. Jenkins) Well, you have undertaken to state who was a member, Mrs. Cochran, on your direct examination in response to General Counsel's question on was she a member of the committee. And now if you weren't there how do you know she was a member of the committee? A. Well, I know she was a member of the committee because I was there when she was elected to the negotiating committee. And I sent her to negotiate the contract with the other members.

Q. How do you know she served if you weren't there?

[38] A. I sent her to negotiate.

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Q. (By Mr. Jenkins) Now, you say that Mrs. King was there at the request of the company, is that correct? A. Yes, sir.

Q. Now, in October of 1969 who were the chairladies at the plant?

Trial Examiner: Does it matter?

Mr. Jenkins: I think its very critical, Your Honor.

The Witness: I couldn't answer you, sir.

Q. (By Mr. Jenkins) Pardon? A. I couldn't answer you. I was not here at the time.

[39] Q. Right. So you don't know? A. No, sir.

Q. And if you gave an answer on direct examination that any of these alleged discriminatees were chairladies of the plant then you were not testifying of your own knowledge, were you? A. No, sir.

Q. Fine. In other words you were representing something to the Trial Examiner that you did not know factually was correct?

Mr. Gravitt: I object. Has misstated the evidence. He asked about November. And his testimony was about October.

Mr. Jenkins: I asked about October.

Mr. Gravitt: The capacity of these people—

Trial Examiner: He knows what went on in his mind. He can answer that question.

What is the answer?

The Witness: I'd like to hear the question.

Trial Examiner: Repeat the question.

Mr. Jenkins: All right. Do you want the reporter to?

Trial Examiner: No. It would be easier for you to repeat it than the reporter.

Mr. Jenkins: Sure.

Q (By Mr. Jenkins) As I understand your testimony [40] then you did not know in October of 1969 who were the chairladies at the plant? A. No, sir.

Q. Isn't it a fact that at your conversation on January the 2st, 1970, with Mr. Gerlach, Sr., that Mr. Gerlach, Sr. advised you at that time that there three women could come back to work at any time they wanted to, but they would have to obey the same rules and regulations as anyone else in the plant? A. No, sir.

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[41] **Martha Jane Cochran**

was called as a witness by and on behalf of the General Counsel and, after being first duly sworn, was examined and testified as follows:

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[42] DIRECT EXAMINATION

Q. (By Mr. Gravitt) What were your duties with the company before you were discharged? A. My duties as a machine operator?

Q. Yes. A. I—

Mr. Jenkins: Once again, Your Honor, this constant suggestive question is objectionable to me as leading.

Trial Examiner: Ths issue of discharge is in issue?

Mr. Gravitt: Yes.

Trial Examiner: You are a machine operator?

The Witness: Yes.

Trial Examiner: All right. Then there you are.

Q. (By Mr. Gravitt) And who was your floor lady? A. My floor lady was Helen Rice.

Q. Do you know Catherine King? A. Yes, sir; I do.

Q. Who is she? A. She was also a machine operator.

Q. Do you know where she is now? A. Yes, I do. She has been very ill in the hospital. She was released last week.

[43] Q. Did she have an operation? A. Yes, she did.

Q. Do you know what kind of an operation? A. A very serious operation.

Q. What was—Was it a brain operation? A. Yes, sir.

Q. Brain surgery? A. That's right.

Q. And approximately when did she have the operation? A. She had the operation, I think it was around, it's been about two weeks ago when she had the surgery.

Trial Examiner: Is this to explain the absence of King from the hearing?

Mr. Gravitt: Yes, Your Honor. She had a serious brain operation.

Trial Examiner: I am sure Mr. Jenkins will be glad to stipulate to that if you talk to him off the record.

Mr. Gravitt: Yes. I so stipulate that she is unable to attend the hearing due to a serious brain operation.

Trial Examiner: I hate to take up time.

Mr. Gravitt: Do you stipulate?

Mr. Jenkins: I have no—

Trial Examiner: Wait. Take it up with him during the next recess.

Mr. Jenkins: If Mr. Gravitt represents this is of his [44] own knowledge then I will so stipulate.

Trial Examiner: Well—

Mr. Jenkins: I have no way of knowing.

Mr. Gravitt: Yes, it is.

Trial Examiner: Do you accept his word or not?

Mr. Jenkins: Certainly.

Trial Examiner: Let's not go into it any further.

Mr. Gravitt: The stipulation will be received?

Trial Examiner: Yes.

Q. (By Mr. Gravitt) Now, do you hold any particular office in the local union? A. Yes, sir, I do.

Q. What? A. Well, I am the secretary-treasurer for the union and also a shop, assistant shop chairlady in the plant.

Q. You are assistant shop chairlady? A. Yes. That is—I'll explain that if you like.

Q. Yes. What is it? A. This is in case the chairlady is absent from work. Then I am to take up the grievance.

Q. With whom? A. With the company.

Q. I see. A. When there is a grievance to be filed. [45] And I am to file them.

Q. Who was the chairlady before you? A. Delila Mulford.

Q. That is the one that is no longer working at the plant? A. Yes. That's right.

Q. I see. And then when she left you took over? A. Yes, sir.

Q. I see. Did you attend a meeting on October 10th with the Gerlach's over grievances? A. October 10th? No, sir, I didn't.

Q. You didn't attend that? A. No, sir.

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Q. (By Mr. Gravitt) Well, now directing your attention to October 13th, 1969, did you have any discussion with King? A. Yes, sir, I did.

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[46] Q. (By Mr. Gravitt) Did she mention to you about a grievance? A. Yes.

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[47] Q. (By Mr. Gravitt) Now, what action did you take after this conversation with King, if any? A. Action that I took was that she asked me to represent her that morning.

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Q. (By Mr. Gravitt) What did she ask you to [illegible]? A. She asked me to represent her that morning because she felt that—

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[48] Q. (By Mr. Gravitt) Now, did you do anything about it? A. Yes.

Q. What did you do? A. I stayed down to the office with her.

Q. Whose office? A. Mr. Gerlach's office. Actually we stayed in the cafeteria just outside the office.

Q. All right. Did you ever see Mr. Gerlach? A. Yes, sir, we did.

Q. Did you have any discussion with him? A. Yes, sir.

Q. Which one was it? A. Well, first we talked to Mrs. Gerlach.

Q. You talked to Mrs. Gerlach? A. Yes, sir.

Q. All right. Now, what did you say to her and what did she say to you? A. Well, the first came to me and she

said, "Now Martha," she said, "your time card is upstairs and my advise to you is to go on upstairs and go to work if you want your job."

[49] Q. And who told you this? A. Mrs. Gerlach.

Q. All right. A. She said, "All we want to do is talk to Catherine." And I asked her, I said, "Well, what do you want to talk to Catherine about?" She said, "Well, we want to take up where we left off Friday."

Q. Where they left off Friday? A. Yes.

Q. Keep your voice up. A. All right.

Q. Go ahead. A. Said, "We want to take up where we left off Friday." And I said, "Well, Mrs. Gerlach, I'm sorry, but if that's what you want to talk to her about that is union business and she has asked me to represent her."

Q. And what did Mrs. Gerlach say, if anything? A. Well, she did say—she turned to Catherine and she said, "We used to be able to talk to you, Catherine." But Catherine then refused to go into the office without me.

Q. Yes. A. The union representative.

Q. All right. A. That was the end of it.

Q. Now, did you talk to Mr. Gerlach subsequently?

[50] A. Yes, we did.

Q. That day? A. Yes.

Q. Which one? A. Senior.

Q. All right. Where did you have this discussion with him? A. Into his office.

Q. Now, tell me what happened? A. Well, we went into his office. And I asked Mr. Gerlach if he was going to give Catherine her time card. And he said, no, he was not going to give her time card until she came into the office and talked to him in private.

Q. What did you say? A. I said, "Well, Mr. Gerlach, she wants union representation." And he said he would talk to one of us at a time. So I told him, I said, "Okay, Mr. Gerlach." I said, "we'll sit out there until you decide to give her her card."

So we went just outside the office door in the vestibule there. And we sat there and waited. He never did give her a card.

But then in the meantime my time card was pulled.

Q. Your time card was pulled? A. Yes.

Q. Now, did you make any explanation to Gerlach, Sr.

[51] as to why you were with King? A. I was a union steward and that was my duty.

Q. Did you tell him that? A. I told Mrs. Gerlach that.

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Q. On this occasion did you ask him what he wanted to talk to King about? A. Yes. I asked him.

Q. You asked him that? A. Yes.

Q. All right. What did he say, if anything? A. He said it wasn't none of my business.

Q. Did you say anything else? A. No.

[52] Q. Now, you say that you and King sat oustide of Gerlach, Sr.'s office, is that correct? A. Yes. That's right.

Q. During the day did he go by you two? A. Well, yes, he went by—

Trial Examiner: The answer is yes?

The Witness: Yes, sir.

Trial Examiner: All right.

Q. (By Mr. Gravitt) Did any conversation take place between either you or King and between Mr. Gerlach? A. No, sir.

Q. You said that your card was pulled on this date. What do you base that statement on? A. Well, Mrs. Gerlach went upstairs and got it. It must have been around seven-thirty.

Trial Examiner: I can't hear you.

Mr. Gravitt: Keep your voice up.

The Witness: Around seven-thirty I think it was when she went upstairs and got my card and brought it down.

Q. (By Mr. Gravitt) Then did you go to work on October 14th? A. No, sir, I didn't.

Q. Now, this is the day after you sat outside the office there with King I am talking about. Do you remember that day? [53] A. Yes.

Q. The next day did you go into the plant? A. Yes, sir, we went into the plant that day.

Q. Who was that? A. Catherine King and myself. We went on on Tuesday morning, which would have been the 13th.

Q. 14th? A. 14th. We went into the plant.

Q. All right. What happened then, if anything? A. We went into Mr. Gerlach's office. And I again asked Mr. Gerlach if he was going to give Catherine her time card.

Q. About what time of day was this? A. It was seven—I guess around seven-ten; something like that.

Q. Around working time? A. Yes. I—

Q. Go ahead with the conversation. What did he say? A. Well, he said he was not going to give Catherine her time card until she came into the office and sat down and talked to him in private. And I said, "Well, what about mine?" He said, "You're penalized two days for being away from your machine." So I said, "All right." So we went back home that morning.

Q. You and King went back home? A. Yes.

[54] Q. Now, the next day would have been a Wednesday, the 14th of October. Did you go to the plant? A. Yes, sir, we did.

Q. And was anyone with you? A. Yes, sir.

Q. Who was it? A. Catherine King.

Q. About what time of the day did you go to the plant? A. And Delila Mulford was with us.

Q. Delila Mulford? A. Yes, sir.

Q. I see. About what time of the day was this? A. This was the regular hour to go to work, seven o'clock.

Q. The regular working time? A. Regular working time. Yes, sir.

Q. I see. Now, did you talk with any of the Gerlach's on this occasion? A. Yes, sir, we did.

Q. To whom did you talk? A. Senior. Mr. Gerlach, Sr.

Q. Q. And just tell us the conversation. What was said? A. Well, our steward had reported back to work that morning—

Trial Examiner: No. Never mind that. You just give the conversation.

[55] The Witness: Well, he refused to give us our time cards and he said I was still penalized for another day. So we went back home again.

Q. (By Mr. Gravitt) Did you hear him say anything to King? A. No. I don't—I can't recall. It's been a long time.

Q. Well, do you now if King had her card on this occasion? A. No, she didn't have her card.

Q. Was the card mentioned? A. Yes.

Q. What was said? A. Mrs. Mulford asked for her card.

Q. Oh, Mrs. Mulford did? A. Miss Mulford did.

Q. Asked who? A. Asked Mr. Gerlach, Sr.

Q. And what happened then? A. He said that no, he wasn't going to give her her time card until she came into the office and talked in private.

Q. Until who came in the office? A. Catherine King. As for me he said I was penalized for another day.

Q. Now, on October the 16th, the following day, did you go to the plant? A. Yes, sir.

[56] Q. Your suspension was up then, right? A. Yes, sir.

Q. Was anybody with you on this occasion? A. Yes, sir.

Q. Who? A. Catherine King.

Q. Did you—Or did she go to work on this day? A. She reported to work that morning.

Q. And did you have any conversation with anyone of the Gerlachs? A. Yes, sir.

Q. Who? A. Well, Mrs. Kathryn Gerlach.

Q. Mrs. Kathryn Gerlach? A. Yes, sir.

Q. And about what time of the day was that? A. It was around seven-twenty or something like that.

Q. What time do you usually go to work there? A.Well, regular time is seven-fifteen, but the bell always rings at ten after.

Q. I see. Now, what was said on this occasion in your talk with Mrs. Gerlach?

Trial Examiner: Is this the same as Mary Kathryn in the complaint? Thank you.

The Witness: She asked me—We waited out in the [57] vetibule. Delila Mulford, our steward—

Mr. Jenkins: I'm sorry. I can't hear you. Would you talk up, please, 'mam?

The Witness: Yes. Catherine King, Delila Mulford and myself, we were sitting out by the office door. And Mrs. Gerlach came out and she asked me, she said, "Are you ready to go to work this morning?" And I said, "Yes 'mam." She said "Well," she said, "you can go to work. But I want you to tend to your business." So I went on upstairs to work.

Q. (By Mr. Gravitt) You went on to work? A. Yes.

Q. And where was King on this occasion? A. Her and Delila Mulford were sitting in the vestibule, just outside the office.

Q. Do you know if King went to work on this day? A. No, she didn't.

Q. Did Mulford? A. No. No, sir.

Q. Did you work all that morning? A. Yes. I worked that morning.

Q. Did you go to lunch? A. Yes.

Q. About what time? A. Eleven-thirty.

[58] Q. Do you go home at lunch? A. Yes.

Q. Did you talk to Mulford then while you were home at lunch? A. Yes.

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[59] Q. (By Mr. Gravitt) Were grievances discussed? A. Yes.

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Q. (By Mr. Gravitt) Now, you went back to the plant before the noon hour was up, didn't you? A. Yes.

Q. Now, did you take any action—

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Q. (By Mr. Gravitt) Did you go back to the plant? A. Yes.

Q. About what time was it then when you got back to the [60] plant? A. It was around ten till tweleve.

Q. And what time does the lunch hour end? A. Well, the bell usually rings at five till.

Q. You are sure of this? A. I am positive.

Q. All right. Now, when you arrived at the plant on this occasion did you take any action based on your grievance discussion with King and Mulford? A. Yes, sir, I did.

Q. What did you do? A. Well, I went into the office to present the grievances to Junior Gerlach.

Q. All right. Did you talk to him? A. Yes, sir.

Q. What did you do and what did he say? A. I went back to his office. And I told him, I said, "Junior, I have some grievances for you." And he said, "I don't have time to fool with them damn things." He said, "I'm leaving town."

And I said, "Well, Junior, I'm sorroy, but you will have to take them." Because I had them there and after you file them and all you have to present them.

So I laid them down on his desk and when I did he grabbed them and threw then in the trash.

Q. Did you tell him whose grievances they were? [61] A. No, I didn't tell him whose grievances they were. I just laid them on his desk. And he threw then in the trash can.

Q. Who threw them in the trash can? A. Junior Gerlach.

Q. And what happened then, if anything? A. Well, I told him, "Junior," I said, "you'd better not destroy those grievances." And I left and went back out into the cafeteria.

And when I did, why, of course he followed me out and went upstairs and pulled my time card. When he came back down he said, "Martha," he said, "you worked this morning, but you're not working this afternoon." And he said, "You're nothing but a damn smart aleck." And I said, "Well, you're a smart aleck, too, Junior, but" I said, "that's beside the point."

Q. And then did you have any conversation with Gerlach, Sr." A. Yes, sir, I did.

Q. And where did that conversation take place? A. In Mr. Gerlach's office. Gerlach, Sr.'s office.

Q. All right. What was said on this occasion? A. Well, I went into his office. And I asked him, I said, "Is he telling me that I'm fired?" And he said, "You heard what he said," He said, "You worked this morning but you're not working this afternoon."

[62] Q. Gerlach, Sr. telling you this? A. Yes.

Q. Proceed. A. He said, "He didn't say you was fired." I said, "Well, what am I supposed to do?" He said, "Just go on home." He said, "You wanted to draw your unemployment now go on and draw it." And I said, "Just like that" Go on and draw my unemployment?" And he said, "Yes." And I turned around and I said, "Mr. Gerlach," I said, "you know something," I said, "you don't know how to run a business."

He's got a lot of girls up there working. And that's what I said. But—

Q. And then you went home? A. Yes. No. Wait just a minute. That wasn't all of it.

Q. All right. Anything else? Tell me. A. He said "Yeah." He said, "I see that somebody else wouldn't know how to run a business." He said, "Your husband tried that once too, didn't he, and it didn't work, too?" And I said, "That's right, Mr. Gerlach." I said, "That's exactly right." And I left the office.

Q. Now, you left the office? A. Yes.

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[63] Q. (By Mr. Gravitt) You know a Katherine Stephens, do you not? A. Yes, that's right.

Q. Who is she? A. She's the secretary to the company.

Q. After you got home did you telephone her? A. Yes, sir, I did.

Q. And you got her on the phone? A. Yes, sir.

Q. And about what time of the day was this? A. This was sometime in the afternoon just after I had gone home.

Q. On October 16th? A. On October 16th.

Q. All right. Now, tell me what was said on this [64] occasion? A. I called Katherine Stephens and I asked her to ask Mr. Gerlach if he wanted me to report back to work the next day. And he said, "No."

Q. Wait a minute. You are talking to her? A. Yes.

Q. Well, did you hear his voice? A. Yes, I did.

Q. And what did he say? A. He said, "No."

Q. Did she say anything to you then? A. Yes. She said, "he said no." And I said, "Well, you tell him that he can reach me at my home phone when he needs me." And he turned around and he said, "Well, I'll call her if I need her."

Q. Did he ever call you? A. No, sir, never did.

Q. Did he ever notify you in any way to come to work? A. No, sir; they haven't.

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[65] CROSS EXAMINATION

Q. (By Mr. Jenking) Mrs. Cochran, when were you elected secretary of the union? A. On or about the 15th of April.

Q. That would be 1969? A. Yes, sir.

Q. And who was elected? Were chairladies elected at [66] at that time? A. Yes, sir, they was.

Q. Okay. Who was that? A. That was Virginia Holland.

Q. Virginia Holland? A. Yes, sir.

Q. And was there an assistant chairlady elected at that time, also? A. Yes, sir.

Q. And who was that? A. That was me, myself.

Q. And did you, as secretary did you give any notice to the company about who was a chairlady and assistant chairlady? A. No. The—

Trial Examiner: The answer is no.

The Witness: No.

Trial Examiner: Let's not volunteer anything.

Q. (By Mr. Jenkins) Then in October of 1969 you were still serving as assistant chairlady? A. Yes, sir. That's right.

Q. And was Virginia Holland still serving as chairlady? A. No, sir.

Q. What had happend to her? A. Well, she had been asked to resign.

[67] Q. You mean by the union? A. Yes, sir.

Q. When was this or when did she resign, if she did? A. She resigned in August, I believe. I'm not exactly sure of the date, but it was somewhere around there.

Q. And was somebody else elected? A. Yes, sir.

Q. Who was that? A. Delia Mulford.

Q. And as secretary of the union did you give any notice to the company about this change of chairladies? A. No, sir, I didn't.

Q. And this Catherine King that we have, is she an officer of the union? A. No, sir, she wasn't.

Q. She didn't have any position of authority with the union at all, did she? A. No, sir. Just a member.

Q. Prior to this time in October, that's the subject matter of this hearing here, beginning about the 19th of October in '69, had you ever handled any grievances yourself with the company? A. Yes, sir, I had.

Q. Who with? A. I took a grievance to Junior one day in the office.

[68] Q. And when was this? A. That was in, I think that was in August. I'm not sure of the date.

Q. Did you take it to him and give it to him personally or just leave it there? A. Yes, sir. I took it to him.

Q. Did you explain to him at that time that you were an assistant chairlady or was that discussed? A. He was aware of me being—

Q. I am asking you what you explained, not what he knows. A. I—

Q. Did you tell him anything about your position with the union at that time? A. No, I didn't tell him at that time.

Trial Examiner: I want to ask a question. Any side may object. I would like someone to ask this question rather than I. How large of a plant is this? Can you agree on it? How many employees?

Mr. Rubenstein: Are you talking about in October, at the time.

Trial Examiner: Yes.

Mr. Jenkins: Your Honor, it fluctuates consistently depending on business conditions. Right now there are about sixty people employed. Back last October I understand about eighty. If fluctuates according to business needs.

[69] Mr. Rubenstein: Yes. I think that's correct.

Trial Examiner: All right.

Mr. Rubenstein: It fluctuates between sixty and eigthy.

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Q. (By Mr. Jenkins) You testified about a conversation on October 16th, 1969 with Mr. Gerlach, Jr. after lunch when you went into his office to present some grievances? A. Yes, sir.

Q. Was anyone else present at that time other than yourself and Mr. Gerlach, Jr.? A. Yes, sir, there was.

Q. Who else was present? A. I don't know who he was. But there was a little boy in there.

Q. One who? A. There was a young boy present.

[70] Q. Someone who did not work at the plant? A. Right. Yes.

Q. Was anyone else present? A. No, sir.

Q. Do you know whether or not anyone else was outside of the office door within hearing distance? A. No, sir; there wasn't.

Q. Do you know whether or not, prior to October 10th, 1969, on numerous occasions Catherine King had either called and/or been called to Mr. Gerlach, Sr.'s office for private discussion? A. No, sir. I'm not aware of that.

Q. You are not denying it? You are just saying you don't know? Is that your answer? A. That's right. I don't know about it.

Q. Now, is there a rule at the company that you are not supposed to leave your position during working time at a machine without approval? A. No, sir.

Q. In other words, you can, anybody in the plant can jump up and leave their machine at any time during working time without getting permission of the company and that's the way that it works? A. No, sir. That is not the way it works.

Q. Well, I asked you if there was a rule requiring [71] permission. Can you explain what the practice is on this? A. Yes, sir; I can.

Q. All right. A. To take up grievances. That is the one thing I was talking about there. Of course we don't, we shouldn't have to get permission I feel to—

Q. Now, I am not asking you about what you should do. I am asking you whether or not, regardless of what the subject matter is, grievances or anything else, isn't there a rule in force at the plant and an understanding among all of the people that if you leave your work station for any reason you get permission during work time, or during working time? Isn't that the policy? A. That is the policy of leaving to go outside or home or something of that sort.

Q. Isn't that the policy also—

Mr. Gravitt: Object to cutting the witness off in her answer.

Trial Examiner: I don't think she had been cut off. She finished. Didn't you?

Go ahead, Mr. Jenkins.

Q. (By Mr. Jenkins) Wasn't that the policy of leaving your work station for any purpose? You reported to the production manager and asked for permission to leave, isn't that the company [72] policy? A. Well, I'm going to be frankly honest with you.

Q. I hope so. A. That is not the purpose of grievance.

Q. Now, you are misinterpreting—

Trial Examiner: The question is can any employee leave his place without permission.

The Witness: No. No.

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[73] Q. (By Mr. Jenkins) Now, on October the 13th you reported for work that morning, didn't you? Did you leave your work station that day to go with Catherine King? A. No, sir. I hadn't reported into work yet.

Q. Well, I understood you on direct examination to say that you reported for work. Are you now saying you reported but you didn't start or what? I am just trying to understand. A. See, we went in the cafeteria at seven o'clock. The bell [74] rings at ten after.

Q. Now, as I understand it, going back to the discussion which you testified about on October 16th, you went to Mr. Gerlach's, Mr. Gerlach, Sr.'s office that afternoon to ask him if you had been fired? A. Yes, sir.

Q. And you referred to the convesation that you had immediately had preceding that with Mr. Gerlach, Jr.? A. Yes, sir.

Q. And in answer to a question by you Mr. Gerlach, Sr. specifically said that he did not say you were fired? A. That's right.

Q. Is that what he said? A. (Nodded).

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(The witness was excused.)

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[76] **Elizabeth Wiley**

was called as a witness by and on behalf of the General Counsel and, after being first duly sworn, was examined and testified as follows:

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DIRECT EXAMINATION

Q. (By Mr. Gravitt) What is your position with the union? A. I'm business agent with the International Ladies' Garment Workers.

Q. And you service the Quality Manufacturing Company? A. Yes, sir.

Q. Directing your attention to October 20th, did you attempt to take up a grievance with Respondent in any way? A. Yes, sir; I did.

[77] Q. And who did you talk with? A. Mr. Lawrence Gerlach, Sr.

Q. And where did you talk to him? A. I talked to him just outside of his office.

Q. And did you discuss with him the three girls not working; King, Cochran, and Mulford? A. Yes, sir; I did.

Q. Now, you tell me what you said and what was said about them. A. I asked him why the girls was not working. and he stated, "Well, they'd been giving me a lot of trouble. And Catherine didn't want to come into the office and talk to me without a union representation. And that I am not going to allow."

Q. Do you recall anything else he said? A. In the office he said to me, "Look, Miss Wiley, I don't want to talk to you about this problem or any other damn union problem that your members bring up now or ever because if

they don't, if the girls don't go to work and start doing their jobs I'm going to close the plant."

Q. Now, directing your attention to October 28th did you have any further discussion with Respondents? A. Yes, sir. On—

Q. And who did you talk with at this time? A. I talked to Lawrence Gerlach, Jr.

Q. Gerlach, Jr. And where did the convesation take [78] place? A. It was in his office.

Q. All right. What was said? A. He got into the discussion about the three girls that were involved that was not working. And so he proceeded, he didn't get into any conversation right then about the three people.

Q. What did he say? A. He proceeded to tell me that he was sick and tired of the members trying to run his plant or sick and tired of the union telling him what to do and how to run his plant and he wasn't going to put up with it. After all, he was a sick man and he couldn't stand the worry and the aggravation of all these problems.

Q. Did he mention a layoff, general layoff? A. He mentioned that he would close the plant. That he could not stand it. And his mother and father, they didn't need the money anyway. And he—

Q. Did he tell you he couldn't stand what? A. That he didn't need the money. That he didn't need the work and aggravation. His mother and father didn't need the money.

Q. Do you recall a layoff of some employees around October 28th and 39th? A. On October the 30th there was a layoff.

[79] Q. Did you talke to anyone at the company about the layoff? A. Yes, sir.

Q. Who? A. Mr. Lawrence Gerlach, Jr.

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[80] Q. (By Mr. Gravitt) Now, did you have a conversation at any time with Mr. Gerlach, Jr. about a layoff on October the 28th, or on or about that date? A. Yes, sir. I had a conversation with him on October 28th in his office.

Q. All right. Now, tell us about it. What was said? A. I asked him if he had a lot of work. And he said, "No." He said, "I don't want any work." He said, "I don't want any work as long as I'm having all this union trouble and worry and aggravation." And he said, "It's a constant turmoil in here, constantly. I can't stand. I'm sick." And I said, "Can Mr. Marcus supply you with work?" And he said, "Yes, sir; he can supply me with work."

Q. Who did? A. Mr. Marcus is a contractor. The manufacturer that he works for.

Q. Now, diecting your attention to November 13th 1969, did you have any conversation with any of the Gerlachs? [81] A. Yes, sir.

Q. Who? A. Lawrence Gerlach, Jr.

Q. And where did the conversation take place? A. In his office.

Q. And what was said? A. At that time we did talk about the three girls. And I asked him if they would let the girls return to work. He said, "Absolutely not." That his mother and father would not ever agree to bring the three back to work. And—

Q. And did he give you any explanation as to why they couldn't return? A. That they was nothing but trouble makers.

Q. Who said that?

Mr. Jenkins: I couldn't hear the answer. I'm sorry.

Trial Examiner: She said that they were nothing but trouble makers.

Q. (By Mr. Gravitt) Who made that statement? A. Lawrence Gerlach, Jr.

Q. Now, after this November 13th conversation did you have another conversation with Mr. Gerlach? A. Yes, sir; I did.

Q. And when was that? A. It was on the 25th day of November.

Q. And where was the conversation? A. In Mr. Gerlach, Jr.'s office.

Q. And what was said on this occasion? A. Again I attempted to try to discuss—

Q. Just tell us what you said and what he said. A. Well, I tried to discuss with him the three people that were involved. And I absolutely got nowhere.

Q. Just tell us what he said.

Mr. Jenkins: I object to the characterization.

Trial Examiner: All right. That last answer may be stricken.

Mr. Gravitt: See, you have got to tell us what you said and what he said to get it in evidence.

The Witness: He said to me that he absolutely would not bring the girls back. His mother and father would not agree to bring the girls back and no court in the land could make them bring them back and if they was to be forced to bring them back in any way whatsoever that they would close the plant, make apartments out of the building. And that was it. So absolutely they would not bring these three trouble makers back to work.

Q. (By Mr. Gravitt) That's what he told you? A. Yes, sir.

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[84] Cross Examination

Q. (By Mr. Jenkins) How many people were laid off on October the 30th? A. Sir, I really can't give you an answer on that. I don't know.

Q. Well, what kind of a layoff occurred, if you don't know how many? A. Well, I will say that nineth percent of the people were laid off.

Q. What do you base that on? Were you here? A. I was not here on November 30th. No, sir.

Q. Now, did you say November the 30th? A. I mean—

[85] Q. What date? A. I mean I was not here.

Q. What month are we talking about? A. I was not here at the day of the layoff.

Q. All right. What was the date of the layoff? And I also want to know what day of the week. A. October. October the 30th.

Q. October the 30th. All right. What day of the week was that on? A. I don't recall.

Q. Was it a working day? A. Yes, sir; I'm sure that it was.

Q. Do you know this or are you just guessing? A. I'll say that I'm only guessing because I don't know. I can't remember the calendar in my mind.

Q. All right. How many people worked on the 29th? A. This I do not know.

Q. How many people worked on the 30th? A. I don't know that any of them—

Q. How many of them worked on the 31st of October, 1969? A. I don't know that anyone worked.

Q. I am asking you if you know how many did or did not work? A. I'm telling you that I don't know.

Q. All right. How many worked on November 1st, 2nd, 3rd, or 4th? On any of those days in 1969? A. None that I [86] know of.

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Mr. Jenkins: How many people worked on November the 1st?

Mr. Rubenstein: That was not the question.

Mr. Jenkins: 2nd, 3rd, 4th, or 5th?

Trial Examiner: It doesn't matter whether it is or not. It is the present question.

Mr. Rubenstein: All right.

Trial Examiner: Or the current question.

[87] The Witness: No one worked to my knowledge. And I'm specifying union members.

Mr. Jenkins: Pardon?

Mr. Rubenstein: I'll object.

Mr. Jenkins: It's your witness. If she wants to volunteer it—

The Witness: I'll withdraw that statement. None.

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[88] Q. Does everybody who does production work at the plant, are they a member of the bargaining unit and the union? A. Yes, sir.

Q. Now, how many people worked on November the 6th? A. None that I know of.

Q. Well, are you saying that you just simply don't know at all whether anybody worked or not? Or are you saying that none of the union members worked on November 6th? What are you saying? I am trying to find out if you have knowledge or if you don't have knowledge. A. You're talking about—

Q. Let me put it this way to you. I want to know whether you know whether anybody worked in the production unit at this plant on November 6, 1969. Now, either you do know that they did work or you know that they did not work. A. I don't know that they did work.

[89] Q. Do you know that they didn't work? A. Would you repeat the question again? The last question.

Trial Examiner: The question is did you know that they did work?

The Witness: No, sir.

Q. (By Mr. Jenkins) Did you know that they did not work?

Trial Examiner: You've already asked that.

Mr. Jenkins: And your answer is no?

Trial Examiner: That's it.

Q. (By Mr. Jenkins) In other words your answer then is that you don't know whether anybody worked or not on November 6th, is that not correct? A. Yes, sir.

Q. Now, on November 7th—

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[91] Q. (By Mr. Jenkins) Do you know whether or not anybody did or did not work in the production unit on November 8th, 9th, and 10th—

Mr. Gravitt: Objection.

Mr. Jenkins: —of 1969?

Trial Examiner: He has taken her through the 29th through the 7th. So I will allow that question. He is allowed [92] to go up to the 10th.

The Witness: 8th, 9th, and 10th? Is that what you're asking?

Trial Examiner: Of November, 1969.

The Witness: I was not there. But I had word through my chairlady that part of the cutting room had begun to return to work.

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Q. (By Mr. Jenkins) Well, then to follow it up. I understand that of your own knowledge, direct knowledge that you do not know? That's what you said? A. No, sir, I was not there.

Q. And, therefore, you do not know?

Trial Examiner: She has already answered that. And I am going to let the record show she doesn't know of her own [93] knowledge.

Q. (By Mr. Jenkins) And your earlier testimony then that there was a layoff at the plant beginning sometime about October the 28th was based upon something someone else told you? A. The layoff had begin the 28th when I was there. There was already people laid off then.

Q. And thereafter any information you have is based solely on what somebody else told you? A. Through my chairlady, who I work with.

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[94] Q. (By Mr. Jenkins) Now, when you had a conversation with Mr. Gerlach, Jr. on October the 28th, 1969, he told you at that time, as I understand it, that he did not have any work, is that correct? A. And he didn't want any work.

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was called as a witness by and on behalf of the General Counsel and, after being first duly sworn, was examined and testified as follows:

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DIRECT EXAMINATION

[96] Q. (By Mr. Gravitt) How long have you worked for the Respondent before leaving the plant? A. From November '57, to October, '69.

Q. And what was your job in the plant in October of '69? A. I was piecing skirts at the time.

Trial Examiner: What?

The Witness: Piecing front skirts at the time in '69.

Q. (By Mr. Gravitt) Did you hold any particular job with the union? A. Yes. I'm union chairlady.

Q. How long have you served in that capacity? A. Around two months.

Q. Now, do you know Mrs. Wiley? A. Yes.

Q. And did you discuss this chairlady with her? A. Yes.

Q. Do you know if she ever notified the company? [97] A. Yes; she notified them.

Q. In that way? A. Well, I appeared with them and Nick Bannano and a couple of the other executive board at one time and was told that I was the union chairlady.

Q. Where was this meeting? A. In the restaurant at the plant.

Q. Do you recall ever informing the company of this matter? A. At that time.

Q. At that time. How was it done? A. Well, we had a meeting at that time and I told them that I was union chairlady and that I would like to have our seniority list.

Q. Told you? A. Mr. Gerlach and Mrs. Gerlach.

Q. And can you give us the best date on this? A. It was sometime in August.

Q. Of what year? A. I don't—Of '69.

Q. Of '69. Now, directing your attention to October 10, 1969, did you attend any meeting with the company? A. Yes. I—

Q. And where was this meeting? A. In the front office of Mr. Gerlach, Sr. But the senior and the junior both [98] was there and Mrs. Gerlach.

Q. And who else was there? A. And Mrs. Gerlach. And I took Catherine King, Ruby Keefer, and Mary Jo Kits to talk about the piece rates.

Q. And why were you there? A. I was a chairlady.

Q. Tell us what happened at the meeting. Tell us what was said.

Trial Examiner: We are not going into the merits of whether they were entitled to a piece rate or not.

Mr. Gravitt: All right.

Trial Examiner: The fact that they discussed piece rate is enough to show that they engaged in this.

Q. (By Mr. Gravitt) Other than discussing piece rates did anyone in the company make any remark to you about your job? A. Junior Gerlach told me that, at the time, that when I had a complaint, a good complaint to come in and he would hear me. And he cursed and told me to get out and if we didn't like the way it was there in the company to go elsewhere.

Q. Do you know Catherine King? A. Yes, I do.

Q. And what job did she have at the plant in October before she left? A. Machine operator.

[99] Q. Machine operator. Did she work close to you? A. Across from me.

Q. What do you mean? Describe it please. A. Right—Well, my machine was on one side and then her machine was on the opposite.

Q. About how far away were they? A. Oh, about four or five feet.

Q. Now, on October 10th do you recall King have any discussion with any supervisor or boss? A. Well, October the 10th, after we came back—it must have been after we had our recess. And Miss Gerlach came and I heard her and Catherine having an argument.

Q. What did Mrs. Gerlach say? A. She told Catherine to mind her own business. And Catherine said, "I'm minding my business." And she said, Mrs. Gerlach said something about if she'd mind her own business she'd make her time. Catherine said, "I'm making your time, but I'm not making my time."

Q. Well, do you recall any more of the conversation? A. No. Well, she said for Catherine to go to the office.

Q. Go to the office? A. Yes.

Q. What happened then, if anything? A. Well, Catherine got up and hollered for me to go with her.

[100] Q. What did she say? A. She said, "Come on, Delila, and go to the office with me." And so I got up and went.

Q. You got up and went? A. Yes, sir.

Q. Where did you go? A. I went as far as the restaurant.

Q. And what happened then? A. Well, Mr. Gerlach and Mrs. Gerlach said that for me to get back upstairs, I had no business down there. And so I told them that Catherine paid her dues and she was entitled to be there.

Q. You told Mrs. Gerlach that? A. Yes. And Mr. Gerlach.

Q. And who? A. Mr. and Mrs. Gerlach.

Q. You told both of them? A. Yes.

Q This is the senior you are talking about? A Yes.

Q. All right. Now, do you recall Mrs. Gerlach saying anything else to you? A. Well, she was told me I was endangering my job in being there. And so did Mr. Gerlach.

[101] Q. Mr. Gerlach told you that, too? A. Yes.

Q. And do you recall anything else being said on that day? A. Well, he told Catherine he wouldn't trust her any more. And Catherine said, "Mr. Gerlach, there's been a lot of lies told on me."

Mr. Jenkins: I'm sorry. I can't hear.

The Witness: "Mr. Gerlach," Catherine said to Mr. Gerlach, said, "Mr. Gerlach, there's been a lot of lies told on me. You're blaming the wrong girl."

Q. (By Mr. Gravitt) Did he make any response? A. Well, he said he'd never trust her any more.

Q. Now, directing your attention to October the 12th— A. Well, October the 12th—

Trial Examiner: There's no question.

Q. (By Mr. Gravitt) Did you go back to work?

Trial Examiner: Wait for a question.

Q. (By Mr. Gravitt) Did you go back to work after this conversation with Mr. and Mr . Gerlach? A. Yes, I did.

Q. You went back to work? A. Yes.

[102] Q. All right. And then did you continue working the rest of the day? A. Yes, sir.

Q. Now, directing your attention to October the 12th, do you recall what day of the week that was? A. That was on Sunday evening.

Q. Did you have any discussion with Mrs. Gerlach? A. Yes. She called me on the phone.

Q. And what did she say? A. Told me she was relaying a message from Mr. Gerlach for me not to come in Monday and Tuesday and to report back on Wednesday.

Q. Did she tell you why? A. No.

Q. When was the next time you reported to the plant? A. That would have been on the 15th.

Q. The 15th you went to work? A. Yes, sir.

Q. What happened then? A. Well, I went in the office.

Q. Whose office? A. Mr. Gerlach's office. And he told me to mind my own business.

Q. Now, was this Senior or Junior? A. That was Senior.

[103] Q. All right. A. He told me he was going to give me my card, but for me to mind my own business. I told him I was minding my business, that Catherine had a right to union representation as well as anybody else and she wasn't the only one that I'd brought to the office at that

time. I brought Mary and Reba, also. But they just called Catherine out for the trouble.

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Q. (By Mr. Gravitt) Well, was King there with you on that occasion, the 15th when you went back to work? A. Her and Martha was in the restaurant.

Q. They were in the restaurant?

Trial Examiner: The question is were they with you when you talked to Mr. Gerlach.

The Witness: No. I was in the office by myself.

Trial Examiner: All right. The answer is no.

The Witness: That's right.

Q. (By Mr. Gravitt) Now, this was the first time you had been back to work since being suspended, is that right? A. That's right.

[104] Q. Was there any discussion of this suspension on this occasion? A. He told me at that time I was suspended for those, for coming off of the floor with Catherine King.

Q. With Catherine King? A. Yes.

Q. Did he say anything else about that? A. I can't remember anything right now.

Q. You can't remember anything now. Well, you had this conversation you have been telling us about with Mr. Gerlach, Sr.? A. Yes, sir.

Q. Well, what happened then? A. Well, he gave me my card and I went back to the restaurant.

Mr. Jenkins: Excuse me. Are we talking about the 15th of October?

Mr. Gravitt: Yes.

The Witness: Yes. That's right.

Mr. Jenkins: All right.

The Witness: He gave me my card. And I went as far as the restaurant and I asked Mrs. Gerlach about Martha and Catherine. They were in the restaurant and I was wanting to know what was going to happen to them.

[105] Q. (By Mr. Gravitt) What did she say? A. Well, she called Mr. Gerlach and said I wouldn't go upstairs until

I found out what was happening to Catherine and Martha. And they told me that Martha was suspended yet and that Catherine was wanted in the office without me.

Q. Who told you? You said they. Who said it? A. Mrs. Gerlach.

Q. Well, when you said Catherine you are talking about King? A. That's right.

Q. Was wanted in the office without you. Did you make any reply? A. Let's see. Well, they took me back in the office and talked to me.

Q. Who took you back in the office? A. Mrs. Gerlach.

Q. Mrs. Gerlach? A. Uh-huh.

Q. And what was said on this occasion? A. Well, of course we went over the whole thing again about, you know, Catherine and she was a trouble maker. And I—

Q. Who said she was a trouble maker? A. Mr. Gerlach.

Q. All right. Go ahead. A. And he didn't want her to—

[106] Q Just tell us what he said. Who said? A. Well, this is Mr. Gerlach.

Q. Mr.? A. Yes.

Q. All right. A. I went back in there And he told me that Catherine was a trouble maker and, of course, he told me some more personal things. And I said, "Her personal life don't concern me." I said, "She is paying her union dues and I was supposed to be there."

Q. And what did he say? A. And he told me I was going to get trouble for doing, for standing there and not minding my own business.

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Mr. Gravitt: Say it again. What did he tell you?

The Witness: Well, he told me to mind my own business. He told me that he was going to give me my card and I was going to go upstairs and mind my own business.

Q. (By Mr. Gravitt) And did you go upstairs? A. Yes. Catherine and Martha had left at that time.

Q. They had left?

Trial Examiner: The question is did you go upstairs.

[107] The Witness: Yes, sir.

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Q. (By Mr. Gravitt) You went upstairs? A. Yes.

Q. And did you continue working the rest of the day? A. Yes, sir.

Q. Did you go into work the next day? A. I went into the outer office that day.

Q. And what happened then? A. I was with Catherine and Martha. I was to stay there until I knew what was going to happen to them.

Q. Did you talk with anyone from the company? A. Yes.

Q. Who did you talk with? A. Mr. Gerlach.

Q. And where did you talk with him? A. In the outer office.

Q. This is Senior? A. Senior.

Q. And who was present? A. Catherine and Martha and Mrs. Gerlach.

[108] Q. What was said on this occasion? A. Well, Miss Gerlach gave Martha her card and she went upstairs. And she said Mr. Gerlach wanted to see Catherine in the office without me. Or she wanted to see Catherine in the office. Mr. Gerlach wanted to see Catherine in the office. And Miss Gerlach said, or Catherine said, "With Delila?" And Mrs. Gerlach repeated the question and he said, "No, not with Delila." And he told King if she went out the door that was it, she was finished. And so she didn't go in the office without me. So she didn't have anything else to do but to go out.

Q. And what did you do? A. Well, I was in the office then. And I said, "Mr. Gerlach, do you want me to go back upstairs?" He said, "No. You've abandoned your job. You're finished."

Q. He told you you were finished? A. Yes.

Q. Did he tell you to do anything then? A. He told me to get out.

Q. Get out. Where was King? A. She was in the outer part of the office. I mean there is a place where you come into the door. That's where she was at at the time. And then there was the floor here and there was the restaurant. And I was in between them two places.

Q. Now, directing your attention to September 30, 1970, did you have any conversation with Mr. Gerlach, Jr.? A. That would have been in October?

[109] Q. Or 1969. I'm sorry. A. In '69. In October of '69?

Trial Examiner: No. This is September 30th.

Mr. Gravitt: September 30th.

The Witness: September 30th. Well, I know at that time we made out a grievance.

Q. (By Mr. Gravitt) You made out a grievance? A. Yes.

Q. Did you do anything with the grievance? A. Yes. The following day I took the grievance into Junior Gerlach.

Q. And what was said on this occasion? A. Well, he told me that he wasn't going to fool with that grievance, that he was going to close the plant down around December the 1st. But he told me he realized I was doing my job and he would hold no hard feelings toward me at all.

Q. About what time of the day was this? A. Noon hour.

Q. At noon hour.

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[110] CROSS EXAMINATION

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Q. (By Mr. Jenkins) Mrs. Mulford, you testified here about some conversations and gathering that you had on December— [111] or excuse me—beginning in October, October the 10, 1969 and then continuing over into the following week. And these matters, as I take it, insofar as we are interested in these proceedings, pertained to Catherine King, didn't they? A. Yes.

Q. Now, at the time that you had these conversations on

October the 10th was there any pending grievance with respect to Catherine King? A. No.

Q. Let me refresh your— A. No.

Trial Examiner: She has answered the question no.

The Witness: Just—

Mr. Jenkins: No. All right. Fine.

Q. (By Mr. Jenkins) If and when, if you know, was a grievance with respect to any matters pertaining to Catherine King filed by the union? A. We just had that complaint on October the 10th, when I took the complaint in to Junior Gerlach and asked him—

Q. Let me interrupt you there just a minute. To make it clear, as I understand that complaint that you are talking about, that is a piece work matter? A. Yes.

Q. That didn't involve Catherine King, did it? A. Yes, sir.

[112] Q. Well, isn't it true that Catherine King always made her piece rate so that she was not really involved in that grievance? A. I took her in the office with me and Mary and Reba.

Trial Examiner: Can you answer the question? Was she involved in that case?

The Witness: Yes.

Q. (By Mr. Jenkins) Well, how was she involved in that grievance? There was no problem with her piece rate was there? A. She wasn't making out. Or she was just making it. And she used to make aroundt $20.00 a day where she was just making her time, or the company's time. That would be $13.60.

Trial Examiner: I don't want to get into the merits of that. The question was she involved or not. That is all I'm interested in. I don't care whether she was making her time or not. I'm not going into the merits, as I said when Mr. Gravitt examined the witness, of that grievance.

Q. (By Mr. Jenkins) All right. Other than that grievance then there were, or the business about the piece rates, other than that was there any grievance filed on that day

with respect to any other matters pertaining to Catherine King? A. Was no grievance filed.

Q. All right. Now, if and when was a grievance filed [113] thereafter with respect to Catherine King? A. There was no grievance filed.

Trial Examiner: Ever. The question is ever.

The Witness: While I was chairlady.

Trial Examiner: All right.

Q. (By Mr. Jenkins) No grievance was filed? A. I never took no grievance in while she was—

Q. And if there had been a grievance filed as chairlady you would know about it, wouldn't you? . Yes.

Q. Now, you testified that on October the 10th of 1969, I believe sometime in the afternoon, you heard a conversation up on the plant floor between Mrs. Gerlach and King? A. That's right.

Q. What was Mrs. Gerlach's position on the plant floor? A. She was the plant manager. I think plant manager or supervisor.

Q. Was the correct title production manager? A. It could be that. I don't know for sure.

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[115] Q. (By Mr. Jenkins) Now, Mrs. Mulford, you testified about this conversation between Mrs. Gerlach, Sr., the production manager, and Catherine King on October the 10th of '69 and that at the conclusion of that conversation you went downstairs with those two ladies to Mr. Gerlach, Sr.'s office, is that correct? A. I didn't get to the office. I went to the restaurant.

Q. You all went to the restaurant then? A. Yes.

Q. Yes. Now, prior to leaving your work station did you request permission from the production manager to leave your work station? A. No. Catherine called me to go with her, sir.

Q. Now, you just answer the question. A. No, I never asked her permission. No.

[116] Q. (By Mr. Jenkins) I will repeat the question for you, Mrs. Mulford. Am I correct in assuming then that on the afternoon of October 10th you left your machine without having received permission from the production supervisor and went downstairs, either with or following King and Mrs. Gerlach, Sr.? A. That's right.

Q. Now, when you got downstairs at the restaurant you were told by Mr. and Mrs. Gerlach, as I understand your testimony, that you should return to your work station? A. That's right.

Q. And then you engaged in a further conversation with Mr. and Mrs. Gerlach, but eventually you did go back to work that afternoon, is that right? A. Right.

Q. Now, on Sunday, October 12th, when you received this phone call from Mrs. Gerlach did she tell you that because you left your work station without permission on Friday, the 10th, you were going to be suspended for Monday and Tuesday? A. No, sir; she didn't say that.

[117] Q. Well, what did she say? A. Said she was delivering a message from Mr. Gerlach for me not to report in on Monday and Tuesday and report to Mr. Gerlach on Wednesday. And that's all she told me.

Q. Well, you knew why you had this suspension, didn't you? A. I didn't know at the time I was suspended, until the time I went into the office.

Q. Well, when you had this conversation on Sunday evening on the telephone with Mrs. Gerlach and she informed you that you were suspended, to be suspended on the next Monday— A. She didn't say I was suspended.

Q. Pardon? A. She just told me not to report on Monday and Tuesday and to report on Wednesday. She didn't say nothing about being suspended.

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Q. (By Mr. Jenkins) And you knew why it was that you [118] were not to report to work on Monday and Tuesday, didn't you? A. Yes, I knew.

Q. And the reason was because you had violated the company rule by leaving your work station on Friday without permission, isn't that correct? A. I wasn't violating no rule.

Q. I didn't— A. I wasn't violating no rule. No rule.

Q. Pardon? A. I wasn't violating any rule against the company. That was my job to come off the floor with Catherine King.

Q. Well, regardless of what you considered your job to be you knew that the reason the company was laying you off on Monday and Tuesday was because you had left your job without permission, didn't you? Regardless of whether they are right or wrong in that, but you knew that was the reason you were not going to be working on Monday or Tuesday? A. Yes.

Q. Now, you testified that on October the 15th, which was on a Wednesday, you came back and you testified that Mr. Gerlach said that King was, I think your words were a "trouble maker," end of quotation, right? A. Yes, sir.

Q. And that he told you some personal things about her, [119] right? That was your earlier testimony? A. Yes, that's right.

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[120] Q. (By Mr. Jenkins) After you had this discussion on October the 15th, with Mr. Gerlach, relative to what you testified to earlier as personal things and other business, then I believe your testimony is that you went back to work then for the rest of the day, is that correct? A. After Catherine and Martha left the plant?

Trial Examiner: You just answer the question.

The Witness: Yes.

Trial Examiner: All right. The answer is yes.

[121] Q. (By Mr. Jenkins) Now, on the 16th what time were you scheduled to go to work? A. Seven-fifteen, but they ring the bell at seven-ten.

Q. Was it seven-fifteen that you were supposed to be at your station? A. Yes.

Q. Were you at your work station on that day? A. No. I was down in the office, outer office.

Q. You did not report at seven-fifteen, is that right, to your work station? A. I was there at the office.

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[122] **Mary Choquette**

was called as a witness by and on behalf of the General Counsel and, after being first duly sworn, was examined and testified as follows:

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[123] DIRECT EXAMINATION

Q. (By Mr. Gravitt) Where are you employed? A. Quality Manufacturing Company.

Q. How long have you worked there? A. It will be about sixteen years in October. The 26th of October.

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[124] Q. (By Mr. Gravitt) Did you attend this meeting on October the 10th, 1969? A. Which meeting?

Q. This grievance meeting. A. Yes, sir.

Q. Sir? A. Yes, sir.

Q. Excuse me. Was Mulford there? A. Yes, sir.

Q. And in what capacity? A. She was our chairlady.

Q. And who represented the company? A. Well, it was Mr. Gerlach, Miss Gerlach, Sr., and Mr. Gerlach, Jr. was in there.

Q. Did you discuss piece rates and various matters relating to working conditions? A. Well, Delila told them that's what he was in there for.

Q. And what did he say to her? A. Well, he said he wasn't going to discuss it because—

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[125] The Witness: Junior said he wasn't going to do anything about it, discuss, because they had spent a lot of money on his brother to learn that work. And he said he'd be damned if he wasn't getting tired of us coming in

there bothering him. He said when we had a good complaint he'd listen to it.

Q. (By Mr. Gravitt) Do you recall Gerlach, Jr. saying anything else? A. Well, Mr. Gerlach started to say something. But he said something about what's the difference in the price. Or what's the difference in the skirts.

Q. Now, who is that? A. That's Mr. Gerlach, Sr. And Junior spoke up and he said anybody that wasn't making out on then could get the hell out and go where they could.

Q. Who said that? A. Junior.

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[126] Q. (By Mr. Gravitt) And do you remember whether King was there or not, Catherine King? A. Yes, sir; she was there.

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[128] **Vonna Oliver**

was called as a witness by and on behalf of the General Counsel and, after being first duly sworn, was examined and testified as follows:

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DIRECT EXAMINATION

Q. (By Mr. Gravitt) Who is your floor lady? A. My production manager is Mrs. Gerlach and my floor lady is Helen Rice.

Q. And you were laid off on October 28th? [129] A. Around that time. I don't know exactly what date.

Q. Within a day or so either way? A. Uh-huh.

Q. All right. And did Mrs. Rice lay you off? A. Yeah.

Q. What did she tell you? A. She said, "Well, Vonna," she said, "this is all we've got for you today." Said, "We've run the work out." She said, "I'll have to let you go." And she said, "I don't know when we'll call you back. Until this mess gets straightened up I just don't know." That was her words.

Q. I see. Now, when did you go back to work? A. Around November. In November sometime, but I can't tell you the exact date because I don't remember.

Q. Do you hold any position with the union? A. Yes, sir. I'm on the executive board.

Q. You have— Strike that. There is testimony that there was discussion between Gerlach, Jr. and Cochran on October the 16th. Did you hear any of that discussion? A. Part of it.

Q. What part did you hear? A. As Martha was— I'll start from the beginning. We went out to lunch.

Trial Examiner: No. You just answer the question.

The Witness: Yes.

[130] Trial Examiner: What part?

The Witness: Well, the part I heard was after Martha went into the office with the grievances. I was in the booth. It was our lunch time. And she came back out and Junior came out behind her. He went upstairs and came back down and he had her card in his hand. And he told her, he said, "Martha," he said, "you worked this morning, but you will not work this afternoon. You're nothing but a damned smart aleck."

Q. (By Mr. Gravitt) Were you aware that Cochran was a chairlady? A. Yes, sir.

Q. How long had you been chairlady, if you know? A. She had been chairlady, assistant chairlady since we've had the union. And she was acting as chairlady since we had none in the plant at the time.

Q. And who was the chairlady before? A. Delila Mulford. First it was Virginia Holland and then Delila Mulford was our chairlady.

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[131] DIRECT EXAMINATION (FURTHER)

[132] Q. (By Mr. Gravitt) Mrs. Oliver, you testified that you were laid off in the latter part of October, 1969. Were other employees laid off at this time? A. Yes, sir.

Q. Can you tell us who? A. Well, all of us were laid off.

Q. What do you mean "all of us"? How many? A. All the machine operators that work on the machines were off at one time.

Q. At one time? A. Uh-huh.

Mr. Gravitt: All right. No more questions. Thank you.

CROSS EXAMINATION

Q. (By Mr. Jenkins) And you say, Mrs. Oliver, you got back to work approximately on what date in November? A. I don't know what date in November. I didn't say. Because I don't remember. But I went back the first part of November.

Q. Would it be your best impression that it was during the first week in November? A. It was the first part of November. I just don't know the exact date. I couldn't say and be positive.

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[133] Q. (By Mr. Jenkins) You made some testimony here relative to a conversation on October 16th between Mr. Gerlach, Jr. and Mrs. Cochran? A. Yes, sir.

[134] Q. Do you remember that? A. Uh-huh.

Q. Now, you told us some of the things apparently that you heard Mr. Gerlach, Jr. say. What about Mrs. Cochran? Did you hear her say anything? A. Yes, I did.

Q. And what did you hear her say? A. She said—Well, when Junior said to Martha that she was a smart aleck she said, "You're a smart aleck, too, Junior."

Q. What else did you hear? A. Well, Martha—Junior went on to Mr. Gerlach's office and Martha went in behind him.

Q. Yes? A. And the only thing I heard, I was out in the lunch room sitting—

Trial Examiner: Just say what you heard.

The Witness: The only thing I heard was Martha saying, "That's right, Mr. Gerlach." That's all I heard.

Q. (By Mr. Jenkins) This was a conversation then that was taking place in Mr. Gerlach, Sr.'s or Mr. Gerlach, Jr.'s office? A. Mr. Gerlach, Sr.

Q. I see. And to your knowledge who was in the room at that time? A. In Mr. Gerlach's office?

[135] Q. Yes. A. To my knowledge I don't know. Because I couldn't see in there from where I was sitting.

Q. Well, you saw Mr. Gerlach and Mrs. Cochran go in the room, didn't you? A. Junior and—

Q. Yes. And insofar as you know was there anyone else in the room? A. No. I didn't—I couldn't see in there.

Q. So they were in there, the two of them with each other, having a conversation relative to these matters, weren't they? A. I don't know what they were having a conversation about because I didn't—I wasn't—

Q. Well, it was a continuation of the discussion that took place in your presence earlier, wasn't it? A. All I could hear her saying was that's right, Mr. Gerlach.

Q. And you don't know of anyone else that was present in the room, right? A. No, sir.

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[136] **Alice Hoschar**

was called as a witness by and on behalf of the General Counsel and, after being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q. (By Mr. Gravitt) You are president of the local? A. Yes, sir.

Q. And have been for how long? A. Since April, 1969.

Q. And was Mulford chairlady? A. No, sir.

Q. Did she ever process any grievances to your knowledge? A. Yes.

[137] Q. Then she was a chairlady? She was a chairlady? A. Yes. But she wasn't the first chairlady.

Q. Oh, no. But she was one? A. Yes.

Q. And who was the chairlady prior to her? A. Virginia Holland.

Q. When did she resign? A. August 19, 1969.

Q. And then Mulford took over? A. Mulford took over.

Q. Do you know for a fact whether Cochran was ever acting as chairlady? A. She was sworn in as assistant chairlady at that time they elected her as assistant chairlady.

Q. Directing your attention to around October 29th or 30th, 1969, were you laid off? A. Yes, sir.

Q. Who is your floor lady? A. Helen Rice.

Q. Did she lay you off? A. Yes, sir.

Q. What did she tell you? A. She said, "Alice, I am going to have to lay ou off until this mess is straightened out."

Q. And when did you come back to work after the layoff? [138] A. November the 12th.

Q. 1969? A. 1969.

Q. So, were other employees laid off at this time? A. Yes, sir.

Q. Can you tell me approximately how many? A. All of them.

Q. All of them? A. All of them. All of the operators upstairs.

Q. Did you attend a meeting on January 12, 1970? A. Yes, sir.

Q. Where was the meeting? A. Down in Lawrence Gerlach, Jr.'s office.

Q. Who was present? A. Joel Goolst and myself and Lawrence, Jr.

Q. Did you discuss grievances? A. I asked him why—

Q. You asked who? A. I asked Lawrence Gerlach, Jr. why that Mary Goodnight was taken off of her operation.

Q. And what did he say?

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[139] Q. (By Mr. Gravitt) What did Gerlach, Jr. say to you about it? A. He asked me who was doing her operation.

Q. Yes? A. And I told him Maxine Warner, a younger girl.

Q. What did he say to you about discussing this matter with you? A. That was all that was discussed there at that time.

Q. Did you go back that afternoon and talk to him again? A. Yes, sir. Yes, sir.

Q. Oh, you did. You talked to Gerlach, Jr.? A. And Senior both.

Q. And Senior both? A. That's right.

Q. About a Grievance? A. They—Mr. Gerlach said he had a right to—

Mr. Jenkins: Let's identitify the Gerlachs.

[140] Mr. Gravitt: Yes.

Q. (By Mr. Gravitt) Will you tell us which one? A. —to take Mary Good night off of that operation and put her on another one.

Q. I see. A. And at that time Junior Gerlach told me, he said, "Alice, I want to tell you something." He said, "After you have punched your time card in I don't want you ever to come off of the floor with a girl."

Q. Do you recall him saying anything else? What would happen to you? A. No, he didn't say. But then Mr. Gerlach told me that was why that he had Delila Mulford suspended for coming off the floor with King.

Q. Which Gerlach was this? A. Senior.

Q. And when was this? A. October—Or January 12th, in the afternoon.

Q. On January the 12th now, prior to going down the second time, you were working, is that right? A. That's right.

Q. And how did it come about that you left work? A. Katherin Stephens, Mr. Gerlach's secretary came after me and said I was wanted in the office.

[141] Q. And then you went down after that? A. (Nodded).

Q. And then Mr. Gerlach, Sr. made this statement to you? A. That's right.

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CROSS EXAMINATION

Q. (By Mr. Jenkins) Mrs. Hoschar, do you remember being interviewed by somebody whose writing I cannot read and I am advised that his name may be Clarence Lowe? A. Yes, sir.

Q. About April 16, 1970, and signing an affidavit for him? [142] A. Yes, sir.

Q. I am going to ask you to take a look at this affidavit, which the counsel here for the General Counsel has furnished me. I want to direct your attention to the second page, the first paragraph, beginning at the top of that page . And I will ask you to read that paragraph, will you please?

Trial Examiner: Read it to yourself.

The Witness: Read it to myself.

(Short Pause.)

Q. (By Mr. Jenkins) Have you read that? A. Yes.

Q. Now, may I have the affidavit then? Now, with your memory refreshed by that paragraph, you testified here a few minutes ago about a conversation with a Mrs. Rice? A. That's right.

Q. Pertaining to a layoff during which conversation Mrs. Rice said that you were going to have to be laid off until this mess was straightened out, something like that? A. That's right.

Q. Now, having looked at this affidavit here, you testified early, if I understood you correctly, that this conversation referred to a layoff in October and early November of 1969. But having looked at your affidavit here are you correct in your testimony or does the conversation you related really refer and [143] pertain to a layoff in August of 1969? A. It was both times.

Trial Examiner: I didn't hear that.

The Witness: It was both times.

Q. (By Mr. Jenkins) You mean that this conversation you had with Mrs. Rice, that she used precisely these same words on both occasions? A. Something to that effect.

Q. Well, in this affidavit then I will ask you to read this next paragraph then, October the 29th, which is the second paragraph, beginning on page two.

(Short pause.)

Q. Have you now read that? A. I have read that.

Q. And there is no reference in there in connection with the October 29th layoff to any such statement by Mrs. Rice, is there? A. No, not in there. But I was laid off again in November.

Q. Well, I am asking you whether or not there was any reference to any such statement pertaining to the October 29th layoff in the affidavit which you gave to the Board agent? A. To October 29th?

Q. Yes.

Trial Examiner: The question is it in there. Do you want to look at it again?

The Witness: No. It isn't in there on that.

Trial Examiner: All right.

The Witness: That's right.

Q. (By Mr. Jenkins) Now, you testified, I believe, that you were president of the local union? A. Yes, sir.

Q. And when did you get to be president? A. April, 1969.

Q. You testified about a meeting that you had in Mr. Gerlach, Jr.'s office on January, in January of 1970? A. Yes, sir.

Q. From time to time during the fall of 1969 did you have meetings with Mr. Gerlach, Jr.? A. No, sir.

Q. But you did in January? A. In January.

Q. And have you had meetings with him on union matters since that time as president? A. The only time I can recall—I can't just recall the date—was when I went down and asked him. Was it—

Q. Well, I am just asking you—I don't want the sub-
[145] stance of the meeting. A. Oh, yes.

Q. What I am trying to really get at, Mrs. Hoschar, if there are matters pertaining to the union that you wanted to talk to him you feel free to talk with him and I presume he feels free to take with you, doesn't he? A. Yes, sir.

Q. And you deal with each other; he on behalf of the management of the company and you as president of the union, doesn't he? A. Yes, sir.

Q. Isn't that correct? A. Yes, sir.

Q. And that has continued since you got to be president of the union, hasn't it? A. Yes, sir.

Q. And that continues, that relationship, down to the present time, doesn't it? A. Yes, sir.

Q. And have you, in the conduct of your duties as president, observed the rule that after you have punched in you you do not come off the floor without permission? A. No, sir; I've never been off the floor without permission.

Q. Then you have observed that rule, have you not? A. I have.

[146] Q. And that is a company rule, isn't it? A. Well, as far as I know.

Q. Yes. And it has been that way as long as you can remember, hasn't it? A. Yes, sir.

Q. And you have worked for this company for how many years? A. Almost seventeen years.

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Trial Examiner: All right. Let the record show that General Counsel rests.

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[147] Trial Examiner: Charging Party's 1. Received.

(The above-referred to document was marked Charging Party's Exhibit No. 1 for identification and was received.)

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[148] **Martha Cochran**

was recalled as a witness by and on behalf of the Charging Party, was examined and testified further as follows:

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DIRECT EXAMINATION

Q. (By Mr. Rubenstein) Mrs. Cochran, are you the same Martha Cochran that testified this morning? Is that correct? A. That's right, sir.

Q. In your testimony this morning you testified concerning certain events before the lunch hour of October 16th? A. Yes. That's right.

Q. And I believe you testified that you took certain grievances in to Mr. Gerlach and he threw those grievances into the waste can? A. That's right, sir.

Q. When grievance forms are filled out, Mrs. Cochran, [149] how are they filled out? Is it one copy, two copies, three copies? A. I think it's three copies.

Q. And you— A. One goes to the office, the management, and one stays in the book and the other one goes to the business agent. I think that is the right procedure.

Mr. Rubenstein: Would you please mark this as Respondent's Exhibits—I mean Charging Party's Exhibit Nos. 2, 3, 4, and 5?

(The above-referred to documents were marked Charging Party's Exhibit Nos. 2, 3, 4, and 5, for identification.)

Q. (By Mr. Rubenstein) I hand you, Mrs. Cochran, four pieces of paper entitled grievance and it is grievance number 9563, which is Charging Party Exhibit 2; 9564, which is Charging Party's 3; 9566, which is Charging Party's 4; and 9567, which is Charging Party's 5. Could you tell us what they are?

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The Witness: These are the grievances that I had taken [150] into the office when Mr. Gerlach, Jr. threw them in the trash can.

Q. And those are the four grievances? A. Those are the four grievances.

Q. All right. And these are colored copies. Are these the original or a copy or what are these that I have? A. Well, there here are— These are not the original copies here. There is one copy that is written up. And these are carbon copies here.

Q. Right. And these were the carbon copies kept by the union, is that correct? A. Yes.

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[152] Q. (By Mr. Rubenstein) The grievances that you took in on October 16th, without going into the nature of the grievances, [153] whose grievances were they? A. They were one of Catherine King's—

Trial Examiner: Can't hear you.

The Witness: Catherine King's, Delilia Mulford's, and mine.

Q. (By Mr. Rubenstein) And your own? A. My own, yes.

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[155] Trial Examiner: Do you rest?

Mr. Rubenstein: I rest.

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[156] **Kathryn Gerlach**

was called as a witness by and on behalf of the Respondent and, after being first duly sworn, was examined and testified as follows:

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DIRECT EXAMINATION

Q. (By Mr. Jenkins) Now, Mrs. Gerlach, you are connected with Quality Manufacturing, aren't you? A. Yes.

Q. And I believe that you and your husband and your son are owners of this company, are you not? A. Yes, sir.

Q. And your general business is the manufacture of [157] women's clothing, right? A. Yes.

Q. And during the year 1969, at all times that are material in these proceedings, you had a position with that company, is that correct? A. Yes.

Q. What was your position? A. I am production manager.

Q. And as production manager would you tell us what just the general nature of your duties was, briefly? A. Well, my duties are to try to meet our orders on time.

Q. Yes. And do you work up on the floor with the production ladies or somewhere else? A. Yes. I'm on the floor.

Q. Now, if during the course of the work day, if one of the machine operators desires to leave her work during working time is there any procedure set up for this contingency? A. If it is a legitimate reason or—

Q. Well, what does the employee do? What is the procedure? A. She is supposed to ask permission to leave the floor.

Q. Now, who does she request this permission from? A. Well, she can either ask me or she can ask the floor lady.

Q. Who was the floor lady during October of last year? [158] A. Miss Rice.

Q. Helen Rice? A. Helen Rice.

Q. Is it a situation where there is any order? Like do they ask you if you are there or do they just ask either one? How does it work? A. They can either ask me or they can ask the floor lady. And the floor lady works through me.

Q. All right. A. She comes to me and we talk it over; whether or not we can spare that girl.

Q. I see. And how long has the company had this rule? A. Oh, every since we've been there, as far as I know.

Q. There has been introduced into evidence a union contract which is dated April 15, 1969. Was that the date that the union began being represented at the plant— A. Yes, sir.

Q. —this last time? And prior to this occasion was the union there before this at earlier years? A. You mean years back?

Q. Yes. Yes. You have had unions off and on for years, haven't you? A. Yes. Yes.

Q. You've had this same union then years before? A. Yes.

[159] Q. Weren't they in there for a number of years at one time? A. Yes, they were.

Q. And you are used to dealing with union? A. I'm use to dealing with unions.

Q. Yes. And during all of this time is it your testimony that you have or have not had this kind of a rule? A. We have always had this rule.

Q. Now, has the union, for example, ever objected to this rule? A. Never. Never that I know of. No.

Q. They always acquiesced in it? A. They always seemed that they wanted to go along.

Q. Right. And nobody from this union has ever made any objection to this rule? A. No.

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Q. (By Mr. Jenkins) Now, in October of 1969 there was an employee at the company by the namet of Catherine King, was there not? A. Yes.

Q. Do you recall just generally how long she had worked [160] for the company? A. I'm not sure about that. I know it's been quite a long time. But I couldn't tell you the exact number of years.

Q. Would you characterize it as a number of years anyway? A. A number of years. Number of years.

Q. And while she was there did she or did she not communicate or talk individually with members of the family? A. Very much so. Lots of times.

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[162] Q. (By Mr. Jenkins) Now, Mrs. Gerlach, back in October and prior to October the 10th, the day that has

been discussed in the testimony, was there any problem that developed with Catherine King over the use of a radio? A. Yes, there was.

Q. Now, can you tell me, and fix it in reference to the incidents on October the 10th, about how far before that it was just roughly, can you put it in a few days, weeks, or months? A. I would say just a few days.

Q. All right. A. Just a few days. And—

Q. Now, where were you at the time this problem came up? A. I was somewhere on the floor when the first, when the floor lady, when Mrs. Rice, when I talked to her about it the first time.

Q. And I think it is clear from the record that in your kind of work the floor lady is a supervisor, which we might call like a foreman in a manufacturing plant, is that right? A. Yes.

Q. In other words a management representative? A. Yes, that's right.

Q. All right. Who was present besides yourself involved [163] in this business? A. Well—

Q. And what happened? A. I'll tell you what happened.

Q. All right. A. She had a radio. She heard it.

Q. Now who is she? A. Miss Rice. She heard the radio. And she told, she went past her machine, her work station, and she said—

Q. Are we talking about Rice now or about King? A. We're talking about Miss Rice—

Q. All right. A. —went past Catherine King's work station.

Q. Yes? A. And she said, "Turn that radio down."

Q. Now, who made that statement? A. Miss Rice.

Q. Who did she make it to? A. To Catherine King.

Q. Did you hear it? A. No, I didn't hear it at that time.

Q. All right. Go ahead. A. Not at that time.

Q Go ahead.

Mr. Rubenstein: I move to strike.

Trial Examiner: Just what you heard.

[164] Q. (By Mr. Jenkins) Now, would you go ahead? A. Well, okay. I went back up the line.

Q. All right? A. And I heard the radio?

Q. Yes? A. And I said something. I said to the floor lady, "Where is that radio?" And she told me where it was. So I went down and told her to turn off the radio.

Q. Now, who the her? A. I told Catherine to turn off the radio.

Q. All right. Yes? A. I said, "Turn off the radio."

Q. Yes? A. That noise, you know, ahead of the machine running and all made a heck of a racket.

Q. Yes. A. And of course they weren't allowed in the place.

Q. Was that a company rule? A. That's right.

Q. All right. Go ahead. A. That's right.

Q. All right. A. So I told her to turn off the radio.

[165] Q. Yes? A. And she turned it off.

Q. Yes? All right. A. And that was all that happened then.

Q. Then what happened? Did anything happen after that? A. Well, then the next run-in I had with her was about the, when she was causing a disturbance on the floor.

Q. Let me ask you this, after this radio incident was there a lunch break and then did you come back to the floor after that? A. Now, I can't answer that to make sure. Because I don't exactly remember.

Q. All right. Then tell me what happened about the disturbance.

Mr. Rubenstein: And when was this?

Mr. Jenkins: Yes.

Trial Examiner: Was this the same day?

The Witness: No, I don't think it was the same day.

Trial Examiner: Was it later or before?

The Witness: No. It was after. She had been— And I'll stand back when a girl—

Trial Examiner: Please don't make any speeches. What happened on the disturbance? What was the disturbance and what did you do about it?

The Witness: All right. This was the same day they had been in the office about not being able to make their quota.

[166] Trial Examiner: All right.

Q. (By Mr. Jenkins) The production quota? A. The production quota.

Q. This has been pretty well established. A. You don't want me to tell that?

Q. No, I was just going to suggest to you that this has been pretty well established. A. I knew she had said it.

Q. That was October 10th? A. Yes. Yes. She had been in the office saying that she couldn't make the, they couldn't make the quota, see.

Q. Who is the she? A. Catherine King.

Q. Use names, please. A. Catherine King.

Q. All right. A. So I looked down the line awhile after this happened. And I saw her going through some kind of motions like this (indicating), waiving her arms. And the two girls that they had had in the office with them saying that they couldn't make their quota, their machines was stopped. They were sitting there just looking at her with their mouths open, didn't know what she was going. But she was trying to talk to somebody down the line.

So I went down and I said, "What is wrong here?"

[167] Q. Who did you make this statement to? A. I made this statement to Catherine King.

Q. All rght. A. I said, "What's wrong here? What's the condition?" And she said there is something about a repair. And I said, "Well, don't cause a disturbance in the place." I said, "If it's a repair fix it, if it's not just lay it down and let one of the floor girls get it and quit causing this disturbance." She said, "You tend to your business." I said, "I am tending to my business. This is my business. I am tending to it."

Q. Yes, And then what happend next? A. And so then she said something. I can't recall just exactly what it was, but she sassed me. And I—

Q. Well, give us your best recollection of what she said. A. Yeah. Well, just for me to tend to my business, along that line. So I said, "Well, now we'll just go down and talk to Mr. Gerlach about it."

And so she jumped up from the machine and she holiered and said, "Come on, Delila." And I said—I don't remember whether I said at that time to Delila that this is not a grievance, this doesn't concern her and she had better stay on her work station.

Q. Now, did Delila Mulford ask you for permission to [168] leave her work station? A. Oh, no. No, no. No.

Q. All right. A. No. No.

Q. What happened next? A. Well, then we went downstairs. And all of this what's been testifed to.

Q. Well— A. And so I don't— I went back on the floor. And from then on I don't know just too much that took place.

Q. When you went downstairs who was with you? A. Well, I think Delila and Catherine.

Q. I see. A. Delila and Catherine.

Q. And who did you all talk to? Do you recall? A. We wanted to talk with Catherine and see what's wrong, what was disturbing her.

Q. I mean who else besides yourself and these two ladies were present downstairs? A. Mr. Gerlach was in the office and our office girl, Miss Stephens.

Q. Now, do you remember at this time any conversation that took place down there? A. Not a whole lot, no. There wasn't much conversation took place. Because she wouldn't go in and talk. She wouldn't go in and talk with Mr. Gerlach.

[169] Q. And who is the she you are talking about? A. Catherine King. I'm sorry. Catherine King.

Q. Yes. I see. Was a request made— A. So I left them arguing and went on back to work. I had to go back on the floor.

Q. Was a request made by anybody for a discussion with anybody else there in your presence that afternoon? A. No. None that I really know of. Not as I recall. No.

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[170] Q. (By Mr. Jenkins) Do you recall, at any other time that afternoon, any discussion that you had with Delila Mulford on the subject matter of the company rule? A. I'll let Delila's—I'll let that stand. Because I paid strict attention. And I know that I was in and out—

Trial Examiner: No. Did you discuss with Delila the company rule that day after the disturbance? That's the question.

The Witness: Oh, that's the question? I don't think so. I don't think so. I think I just told her, I believe I stated, I said, "Delila, this doesn't concern you." I might have said at that time, "This doesn't concern you." Because, you see, it wasn't a grievance.

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[171] Q. (By Mr. Jenkins) Mrs. Gerlach, directing your attention to October 10, 1969, the day of this trouble with Mrs. King that you testified about here, the General Counsel in this case is charging that on this day you threatened to take reprisals against some employee because of her activities on behalf of the union. Did you threaten any employee that day to your knowledge? A. No, sir. That's just a little bit below my dignity.

Q. Well, did you make any threats against Delila Mulford that day? A. No.

[172] Trial Examiner: No. I don't think that was the threat. According to General Counsel it was this last witness. What's her name? Mrs. Hoschar. That's what my notes show.

Well, I may be wrong. Go ahead. It doesn't matter who the employee was. Did you make any threats at all?

The Witness: Who it was? No threat.

Trial Examiner: All right. Let's leave it that way, Mr. Jenkins. Because my notes apparently disagree with yours.

So as to place this I am going to ask the witness whether she made any threats at all to any employee?

The Witness: Now, may I say something?

Trial Examiner: No. You just answer Mr. Jenkins questions.

The Witness: Okay.

Q. (By Mr. Jenkins) Well, on that October 10, 1969 do you actually recall having any conversation at all with Alice Hoschar that day? Was she involved in this problem at all? A. No. I never had any—As far as I know Alice Hoschar was out of the picture at that time.

Q. Yes. A. No.

Q. When you got downstairs with Delila Mulford and this Catherine King, would you state, did you report to Mr. Gerlach that Delila had left the floor without permission? A. Yes. Yes.

[173] Q. And did he make any response back to her after you had told him this? A. As I recall he told Delila to go back to her machine, that he was going to talk to Catherine a little bit.

Q. Yes. And he told her this after you had told him that she had left the floor? A. Yes.

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[174] Cross Examination

Q. (By Mr. Gravitt) Now, Mrs. Gerlach, I understand that you are the production manager? A. That's right.

Q. And that's quite a hectic problem keeping the production going at all times, isn't that right? A. You're not kidding.

Q. And then you have how many girls working under your supervision? A. I think it was stated at about sixty.

Q. And do you remember Catherine King working there before you worked for the company? A. Before I worked with the company?

Q. Yes. A. For the company. Not before—

Q. Before you became production manager. I'll put it [175] that way. A. Well, I wouldn't hardly know how to answer that. Because, you see, I worked—

Q. Yes. That's all right. I withdraw the question. A. And then I quit and I worked again. And she was there both times.

Q. And in order to keep your production going you have got to keep the girls working unless they have good reason to leave the machine? A. Yes. Yes.

Q. That is your job to see that they stay there, isn't that right? A. Yes. That's right.

Q. All right. A. Yes.

Q. Now, King usually made production, did she not? A. Yes, sir.

Q. But even though she had a radio going there and it was disturbing to you she still made production? A. It wasn't disturbing me.

Q. It didn't bother you? A. No, it didn't bother me. Because I wasn't around enough to hear it. Now she was disturbing the other girls around her.

Q. But you did correct her about this matter? A. Oh, yes.

[176] Q. Did you not? A. Yes, indeed. Yes.

Q. Beg pardon? A. Yes, indeed.

Q. And you wanted to straighten that out? A. Yes, indeed.

Q. And you spoke to her about her working conditions. And then it wasn't long after that, I believe it was on October 10th that you said you had the next run-in with King, is that right? A. I suppose it was.

Q. Well, just using your words. A. Well, I suppose it was. But I can't just recall all of these dates. Because—

Q. Yes. A. But—

Q. That was the 10th? A. Yes. All of this—

Trial Examiner: I want to protect the witness. She didn't say October 10th. It was suggested to her—

The Witness: Yes.

Trial Examiner: —that it was October 10th because we were all in agreement that a certain event occurred on that day. I forget now what that event was.

Mr. Gravitt: I'll get it in. I'll straighten it out.

[177] Trial Examiner: I'm not going to—

The Witness: I remember the day.

Q. (By Mr. Gravitt) That was the day that Mulford, you know, the chair lady had taken King and some other girls down to talk to your husband about the piece rates and things? A. Yes.

Q. Now, wasn't it? A. Yes, I think so.

Q. And that was October the 10th, right? A. (Nodded).

Q. What's your answer? A. If they say that's it it was.

Q. I want to know what you say it is. A. Well, I can't recall the date.

Q. But this is— A. I can't recall the date because I just don't exactly remember the date.

Q. All right. You don't recall the date. A. Whatever they said here, that's the way it was. I mean—

Trial Examiner: She has identified the day.

The Witness: Yes.

Trial Examiner: Now, whether that was October the 10th or not is another matter and something she doesn't know.

[178] So why push her?

Q. (By Mr. Gravitt) You know real well the day I am referring to? A. I know real well the day you are referring to.

Q. That was the date that Mulford went down with those girls? A. Yes.

Q. Now, later that day, that's when you had your run-in with King, right? A. About the radio?

Q. No. Not that one. The next run-in. A. Oh, yes. Yes. That's right.

Q. You keep me straight on this. A. Yeah. That's right.

Q. That's true, isn't it? A. (Nodded).

Q. All right. And she was making gestures there that you felt she shouldn't be making? A. Absolutely.

Q. It was relating to her working conditions, so to speak? A. Yes.

Q. And you wanted to get this thing straightened out so you're going to send her to the office now, isn't that right? A. No. That's not right.

[179] Q. Did you tell her to go to the office? A. But not for that reason.

Q. Did you tell her to go to the office? A. I did.

Q. She sassed you? A. She sassed me first.

Q. And you wanted— A. And she told me to tend to my business.

Q. Yes. And you— A. And I said, "I am tending to my business." And she sassed me.

Q. And you wanted to straighten that out?

Mr. Jenkins: Just a minute. Let her finish her answer.

The Witness: And I said, "I am tending to my business." So we'd go down to the office and talk it over.

Q. (By Mr. Gravitt) You wanted to get this sassing problem straightened out, didn't you? A. I wanted to find out what this was all about.

Q. And you were going to go down to your husband so he— A. That's where I was going to go. I'm supposed to. He's my boss.

Q. Yes. And you were going to send King down there, [180] were you not? A. I was making sure. I was going to take her with me down to the office.

Q. You wanted him to correct her, didn't you? A. No, sir. I wanted to take her down because she sassed me.

Q. You wanted your husband to correct King for this sassing you? A. Yes.

Q. And interferring with production? Is that your testimony? A. She was interferring. Not by sassing me. I don't care what they say to me.

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[181] Q. (By Mr. Gravitt) Now, Mrs. King sassed you and you wanted to take her down to the office or told her to go to the office so your husband could straighten it out? A. I didn't tell her. I said, "Let's go to the office and talk this over."

Q. Talk it over? A. Uh-huh.

Q. All right. Then about that time she said, "Come on, Delila, I want you to go with me"? Now, isn't that right? A. She didn't say—I don't think she said, "Come on and go with me." She said, "Come on Delila."

Q. Come on Delila? A Come on Delila.

Q. And you don't know what you said to Delila at this [182] time, do you? A. I don't. I can't recall whether I said—

Q. In fact, you gave a statement saying you can't recall, didn't you?

Mr. Jenkins: Just a minute. Let her finish.

Trial Examiner: Let the witness finish.

The Witness: I don't recall whether I said anything to her at that time upstairs or waited until we got downstairs. I don't recall. I don't intend to story to you.

Mr. Gravitt: Oh, I—

The Witness: I don't recall whether I said anything to her right at that time or not. I don't remember what she said. Whatever she said was probably the truth.

Q. (By Mr. Gravitt) Well, do you deny that you told Delila right there in front of King to not leave the work station then? You don't deny it? A. I don't deny it. I don't deny it at that time, no. I don't know whether I said it at that time or not.

Q. You didn't tell her? A. But they know as a rule that you weren't supposed to leave.

Trial Examiner: Never mind what they know. The question was did you tell her that.

The Witness: I can't remember. I don't know.

Trial Examiner: All right. That's the answer.

[183] The Witness: I don't know what I told her.

Q. (By Mr. Gravitt) You don't think you did? A. I don't remember.

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[184] Q. (By Mr. Gravitt) Now, when you got downstairs there was Delila tagging along here with King, isn't that correct? A. Yeah.

Q. And did you tell King on this occasion that your husband wanted to talk to her but without Mulford? A. I didn't tell her that, no.

Q. Did your husband tell her that in your presence? A. I took them to the office and turned them over to him.

Q. Yes. A. And then I went back upstairs.

Q. Well, did you hear your husband tell Mulford to get on back upstairs, that this is none of her business? A. I don't recall that.

Q. You don't deny hearing that? A. I don't—I don't—I don't recall.

Q. And wasn't it at that time that Mulford went back upstairs and went to work? Just think about it carefully. A. I can't remember whether she went back up there that afternoon. I don't think she went up, went back without King.

Q. Did King go back with her then? A. No.

Q. Did Mulford go back to work? A. I, I don't—I believe she did that afternoon.

Q. Mulford went back to work? A. Yes.

Q. That was after your husband told her it was none of her business A. I don't recall what he said to her.

Q. Did you hear him say anything to her? A. I heard him ask them what it was all about.

Q. And what did they tell him? A. And I didn't hear what they said. I told you I went on back upstairs. I didn't stay for the conversation.

Q. Well, now didn't you stay down there with your husband until, or didn't you tell him what this thing was about? A. Well, yes, I told him what it was about.

Q. What did you tell him? A. I told him just what had happened.

[186] Q. And then what did he say? A. Well, he said—I don't recall just exactly what he said. Because I didn't pay too much attention to it.

Q. And it was at about that time that your husband told Mulford that he didn't have any business with her? A. Yes. I remember him telling her that.

Q. You remember that now? A. And it wasn't a grievance and he didn't have any business with her.

Q. You heard him tell her that? A. Yes.

Trial Examiner: Wait.

Mr. Jenkins: Just a minute. Let him—

Trial Examiner: Wait a minute. Now, you are not going to fragmentize this. She has the right to give the entire conversation. Now, if he said this isn't a grievance, whether it is or not, she has the right to say it.

Did your husband say that?

The Witness: Yes. It is no grievance.

Trial Examiner: All right. I'll take that answer.

Q. (By Mr. Gravitt) Do you have anything else to say? I don't want you— A. No, I don't have anything else to say. But Catherine King had been in the office time and time and time again. And he wanted to talk to her a little bit and that was just it.

[187] Q. Have you finished your answer? A. Yes.

Q. I don't want to cut you off. If you have any more to say you go on and say it.

Mr. Jenkins: We'll protect you.

Q. (By Mr. Gravitt) But your husband told Mulford that he wanted to talk to King without her being present,

right? A. He told her that didn't concern her.

Q. Didn't concern her? A. For her to go on back to her work station. We had orders to get out.

Q. And even in cases where girls leave the floor during working time if they've got a good reason it's all right, isn't it? A. Sickness or family calls or some real sick. Real sick or something like that.

Q. Some good reason? A. Yes. Some good reason.

Q. That had been the practice there up until these people were fired, isn't that right? A. Fired?

Q. Or left the employment? A. Who was fired?

Q. Excuse me. That had been the practice, had it not? A. A real legitimate reason, but nothing petty. No petty stuff.

[188] Q. It just wasn't an iron-clad rule that any time you automatically leave your machine during working hours you can't work here any more? That wasn't the rule, was it? A. No.

Q. In fact, Mrs. Holland and some of the other chair people had processed grievances there in work time, hadn't they? A. Yes. In a very business-like way.

Q. Yes. But they had done it on work time, isn't that right? A. Well, they were grievances. Yes, grievances.

Q. Yes. A. This was no grievance. There had never been any signed grievance.

Q. And Holland or any of the others that processed those grievances on work time, they weren't laid off or suspended or discharged, were they? A. No.

Q. You knew that Mulford was representing the union, did you not? A. No. No, I didn't.

Q. You didn't know that? A. No. I hadn't been informed.

Q. You didn't know anything about that? A. No. We hadn't been informed of that.

[189] Q. You just thought she was another employee working there and not in the capacity of a chair lady? A. That's right.

Q. Now, that's your story? A. That's my story. I hadn't been informed that she was chair lady. I—

Q. Well, was she sort of a union agitator, so to speak? A. No, I wouldn't say that.

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[190] Q. (By Mr. Gravitt) Do you recall making a statement that Mulford led other employees in the office to discuss working conditions with your husband? A. She did that day.

Q. Beg pardon? A. She did that day.

Q. Had she done it earlier? A. She did that just that one time.

Q. That was that— A. That was that day.

Q. The day that she sassed you? A. Yes.

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[191] Q. (By Mr. Gravitt) Now, the question is that you saw yourself Mulford talking to employees and getting them to go into the office to discuss working conditions with your husband? A. No, I didn't say that.

Q. No. I asked did you ever observe that? A. No.

Q. Did you ever see her talking to employees to get them— [192] A. No.

Q. Did you ever hear her tell any employee, come on, let's go to the office— A. No.

Q. —and get this straightened out? A. No.

Q. Never did? A. No.

Q. Did you ever see her leading other employees into the office? A. She did that day.

Q. Oh, that day? A. Uh-huh.

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[193] Q. (By Mr. Gravitt) That was the day King sassed you, not Mulford? A. No. That's right.

Q. Is that right? I apologize. A. Yes.

Q. Do you recall how many employees on this occasion that you just talked to me about that Mulford got to go into the office with your husband? A. Yes. I mean now—

Q. Can you name the girls? A. Yes.

Q. Who were they that went in with Mulford? A. Mary Choquette, Reba Keefer. Those girls that was on skirt piecing. I just can't recall without checking back. And Catherine King.

Q. Choquette? A. Choquette. Right.

Q. And that was a discussion concerning piece rate? A. Yes.

Q. That's right? A. Yes.

Q. Now, when you observed Mulford getting these people in the office, as far as time was concerned that was before Catherine [194] King had sassed you, is that right? A. Yes. Yes.

Q. So then you knew that Mulford was representing the union, did you not? A. No.

Q. You didn't know and still didn't know it? A. No.

Q. Don't know it to this day? A. No. No. I haven't been advised.

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Q. (By Mr. Gravitt) Now, you remember when your hus- [196] band told Mulford to go back upstairs and get to work? A. It was that afternoon that—

Q. Yes. That— A. Yes.

Q. That is when you had taken King down to the office? A. Yes.

Q. And you recall Mulford saying that she had a right to be there to represent King, King had requested— A. Yes. She said she wasn't leaving her.

Q. She objected to going back to work, didn't she? A. Yes.

Q. But then she did go on back to work? A. Yes.

Q. Now, you never had any rule posted at that plant, did you, about they couldn't leave their work station? A. I don't recall. I don't know if there was any posted or not. But as a general rule. Every place has to have rules.

Q. Why certainly, ma'am. But you didn't have any rule posted like that, did you? A. I guess there wasn't any posted.

Q. You let the girls leave their work station for good cause?

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CROSS EXAMINATION

Q. (By Mr. Rubenstein) Mrs. Gerlach, you had stated on cross examination that you had had experience with the union prior to the organization in 1969. Can you tell us the last time that there was a union in your shop? A. I couldn't give you the exact date. It's been quite awhile.

Q. Well, if I call your attention to the date of 1953 does [198] that ring a bell? Would that be about right? A. I would say that would be about the time.

Q. Right. But since 1953 you have not had a union in the plant? A. No.

Q. Now, you said, again in answer to a question, that there had been no objection on the part of the union to the rule that required people to stay at their station unless they asked either you or Mrs. Rice permission. Between April and October of 1959 was that rule ever communicated to the union? Did you tell the union? Or to your knowledge was the union told that there was such a rule? A. I didn't quite understand now the way you put that.

Q. Well, you have testified—

Trial Examiner: Don't make it a long question. Let's see if I can help you. Did you ever tell the union about this rule that nobody could leave?

The Witness: Oh, no, no.

Mr. Jenkins: I object unless it is made clear who the union is.

The Witness: No.

Mr. Jenkins: Are you talking about the business agent?

Trial Examiner: All right. All right.

Q. (By Mr. Rubenstein) All right. me start, do you [199] know Mrs. Wiley, the business agent? A. Yes.

Q. Was that rule ever communicated to her? A. Not through me.

Q. All right. Do you know, of your own personal knowledge whether anybody, either your husband or anybody else— A. These things had been discussed with the union agents in the—

Q. In your presence? A. Yes.

Q. All right. A. They had been discussed about how to handle grievances and so on and so forth.

Q. All right. A. Those thing have been discussed.

Q. Let's go back. When did these discussions take place? A. Oh, I don't remember. Along about this time all this was happening. I can't remember dates.

Q. Are you—Well, was this prior to April of 1969? You will recall that you had a strike in April of 1969? A. Yes.

Q. Leading up to the contract. Was it before the strike or after the strike? A. What do you mean? What was before?

Q. When this was discussed about how grievances would [200] be handled. A. Oh, after the union came in those things were discussed; how to handle grievances and so on.

Trial Examiner: Let's leave out grievances and get right to the rule. That is what I'm interested in.

Mr. Rubenstein: Yes.

Q. (By Mr. Rubenstein) Now, now my question was that do you know of your own personal knowledge whether the rule about people leaving work and having to ask permission of you or Mrs. Rice was ever communicated to the union? That rule. And I am now talking between April and October, 1969 or prior to April of '69. A. That has always been the rule there.

Q. Well, that was not my question, Mrs. Gerlach. My question was did you ever have any, you personally or in your presence, was there any discussion of this rule with the union? A. The only thing that was ever discussed in my

presence, after the union came in we sat down and tried to talk these things over and tried to agree how they would be handled. That's the only thing.

Trial Examiner: I am going to interpret her answer as no. Go on from there.

Mr. Rubenstein: All right. Thank you.

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Q. (By Mr. Rubenstein) Mrs. Gerlach, this rule, how, to your knowledge, and when, if you could tell us, was this rule communicated to the employees? Tell us how the employees were made aware of this rule. A. I wouldn't know how to tell you.

Q. Well, let me start. Would you say personally—

Trial Examiner: She said it wasn't personally. Now ask her if there was any other way.

Mr. Rubenstein: Well, that's right. That's what I'm trying to get out.

Q. (By Mr. Rubenstein) Did you personally ever have occasions to talk to employees about this rule? You personally? A. A lot of times they would ask to be off or leave or something like that. And we'd talk the situation over and find out if it was really necessary or something like that. And I always try to go along with them as much as we can.

Q. All right.

Trial Examiner: I am going to interprete that, even [202] though I haven't decided the case—

Mr. Rubenstein: Yes.

Trial Examiner: —as evidence of the fact that the employees knew about it. Because if they didn't know about it they wouldn't ask her to take leave.

Mr. Rubenstein: Oh, well—

Trial Examiner: Now, you argue about that or develop this further with the witness.

Trial Examiner: Go ahead.

Q. (By Mr. Rubenstein) When these employees would ask you to leave—Give us an example, some examples of

the type of what you meant. Aren't you talking about leaving the plant? Such as for a doctor's appointment or—A. Yes. Yes.

Q. That's what you are talking about? A. Leaving their work station.

Q. Now, are you talking about—All right. For example, do employees who have to go to the ladies' room come to you? A. Oh, no. No.

Q. The do not? A. No, no. No. That would be terrible.

Q. Now, what type of leaving the station does this rule [203] encompass? Does it mean leaving the station for—Is it a time element, for example? That they can leave for a minute or two minutes without asking, but if they have to leave for fifteen minutes then you have to ask. Is this the rule? A. Do you mean to go to the washroom or what do you mean?

Q. Well, what I mean is—What I'm trying to get at is what this rule is. This rule that employees—Apparently you claim that everybody knows about. I am trying to establish, Mrs. Gerlach, what is this rule. When do they have to ask and when don't they have to ask?

Trial Examiner: I would like to interrupt.

Mr. Rubenstein: Yes.

Trial Examiner: Subject to interruption by counsel.

You have breaks at all at work?

The Witness: Yes. We have coffee breaks.

Trial Examiner: Suppose at a time other than at coffee break a girl feels like going to take coffee. Does she have to ask permission?

The Witness: She would have to go. But we have a coffee break.

Trial Examiner: I am not talking about coffee break time. But at some other time other than coffee break time. Suppose somebody just feels like going taking a smoke for ten or fifteen minutes.

The Witness: Then they can't do that.

[204] Trial Examiner: They have to get permission to do that?

The Witness: They have to get permission.

Trial Examiner: All right.

Q. (By Mr. Rubenstein) All right. Are there occasions when an employee can leave the work station, not on break time, without asking permission?

Trial Examiner: This is not on break time?

Mr. Rubenstein: Not on break time.

The Witness: If it was a legitimate reason.

Q. (By Mr. Rubenstein) Then they can go without asking permission? A. Usually they go through—Those things are talked over and if they have to be away they go and talk to their boss about it.

Trial Examiner: Can they do it without talking to their boss?

The Witness: No, they're not supposed to.

Trial Examiner: All right.

Q. (By Mr. Rubenstein) Well, my question is, are there any circumstances—Well, I have already established that going to the bathroom is one circumstance. Are there any other circumstances where an employee can leave the work station without get- [205] ting permission? A. No.

Q. No other reason? A. No.

Q. Except going to the rest room? A. That's right.

Q. And let me ask you this. Have ever been occasions through these years that you have been production manager where employees have left the work station without asking permission— A. None that I—

Q. —and then—Just a moment. And hear me.—and later have come to you and said, given you the reason which you have accepted? A. Not that I recall that. The only time that ever happens is when they're off or didn't show up, you know, come into work on the morning. They always tell us why or something and so forth.

Q. I see. A. But I can't recall anything like that.

Q. Now, as a matter of fact that very morning when the employees went down to handle the grievance concerning the piece rate they didn't ask permission, did they? Mrs. Mulford didn't ask permission then? A. That was at noon hour.

[206] Q. That was at noon hour? A. That was at noon hour.

Q. And none of that was on working time? A. No. That was at noon hour.

Q. And now when were grievances normally handled by Mrs. Holland? A. I don't recall. I didn't have too much to do with that. You see, the office took care of that.

Q. Well, she never asked your permission, did she, when she had to go down handle a grievance if it was during working hours? She never asked your permission? A. No, she never asked my permission.

Q. And she never asked Mrs. Rice's permission? A. No. But she wasn't off the floor too much during work hours.

Q. But occasionally she was? A. Occasionally; if she had a grievance.

Q. If she had a grievance? A. If she had a grievance.

Q. Right. And if she had a grievance and she thought that it was necessary to take it up with downstairs she would take it up downstairs without asking your permission? A. That's right. She usually went at noon hour.

Q. I understand that she usually did. But there were other occasions— A. Well—

[207] Q. —where she went at other times?

Thank you. That's all I have.

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REDIRECT EXAMINATION

Q. (By Mr. Jenkins) Mrs. Gerlach, on cross examination you were handed an affidavit here that you had signed. And I think you had been asked previous to that whether or not you had told Delila Mulford on October the 10th not to

leave her work, you know, before she came downstairs. And I hand you this affidavit and show you the statement in your affidavit beginning at the bottom of the first page and extending through— A. Yes.

Q. Yes. Now, having had that affidavit when did you give that affidavit, do you recall? A. Now, may I tell you—

Q. No. Just what is the date of the affidavit? Here it [208] is right down here at the bottom. A. That's April. That's the 16th of April. It's fresh in my mind.

Q. Now, having used this affidavit that the government used to refresh your recollection, I now ask you whether or not you can say now you did or you did not tell Mrs. Mulford not to leave her work station before she did leave it on October 10th? A. Yes.

Q. Pardon? A. Yes.

Q. What is your best recollection now of what you remember? What do you think you said, if anything? A. I think I said to her that this didn't— Just whatever that says there.

Trial Examiner: That's no good. You'd better testify.

Q. (By Mr. Jenkins) The question is, what, on the subject matter of whether you told her not to leave her work station or not? A. I think I said, "Delila, this doesn't concern you and you'd better stay at your work station."

Q. That's your best recollection now? A. That's my best recollection of what I said.

Q. On October the 10th, when these matters came up in the afternoon with Mrs. King over what you have referred to as her [209] sassing you had she filed any grievance with the company? A. No.

Q. Had she made any complaint? A. Not at that time, no. I didn't consider it a union matter.

Q. She had initiated no complaint or grievance, formal or informal, had she? A. No.

Q. At that time had she? A. No.

Q. Now, do you remember any specific occasion now during her working time when Virginia Holland left her work

station without first giving permission? A. No, I don't recall such a time. I don't recall it.

Q. Regardless of what the purpose was? A. That's right.

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Lawrence Gerlach, Jr.

was called as a witness by and on behalf of the Respondent and [211] after being first duly sworn, was examined and testified as follows:

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DIRECT EXAMINATION

Q. (By Mr. Jenkins) Mr. Gerlach, in the midfall of 1960 through July what was your position with the Quality Manufacturing Company? A. I'm active with my mother and father in the management and operation of the company.

Trial Examiner: According to the complaint you have admitted he is the general manager.

Q. (By Mr. Jenkins) Do you have that title? A. Self-assessed.

Q. Do you have the title? A. I—

Q. Well, what is your title? A. I guess you would say general manager.

[212] Q. What generally are your duties? A. My duties are to work with the contractor, soliciting and getting business for the company, working with the account, doing the shipping, supervising the shipping, and making transportation arrangements and the various details concerning meeting the ads and the responsibilities of the company.

Q. Do you have any duties relative to the women that are the production workers in the company? A. I have been trying to act as company representative working with the union.

Q. For example, did you participate in the negotiation of the contract which is dated April 15th? A. Yes, sir, I did.

Q. 1969? A. Yes, sir.

Q. And have you, in connection with your various duties do you have meetings with business agents of the union? A. I see them nearly every time they're in.

Q. Do they call on you when they come? A. Usually. I might—

Q. You're— A. I might qualify that a little bit. The last gentleman don't seem to stop in my office as often as Elizabeth and Joel and the others did.

Q. Joel Goolst, the witness who testified early this morn-
[213] ing? A. Right.

Q. And Elizabeth Wiley? A. Yes.

Q. You did meet with them periodically? A. Yes.

Q. And have you had meetings, for example, during 1970 with these people or other business agents in the union? A. Yes.

Q. Periodically? A. Yes. Not on any particular schedule, but at pretty regular intervals.

Q. What usually initiates these meetings? What sort of problems?

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Q. (By Mr. Jenkins) Well, then, as I take it, both before and after all of the incidents alleged in this complaint your company has recognized the union, has it not, as the bargaining agent for these people? A. We had a severe strike. When it was over—

Trial Examiner: The question was have you recognized
[214] them?

The Witness: I joined the union. Yes, sir. Joel and I made a speech. We both accepted each other.

Q. (By Mr. Jenkins) This was when? In April of '69? A. April 15, 1969.

Q. And you all have worked together since that time? A. To the degree that we could, yes, sir.

Q. Now, there is a charge here in this complaint that is designated paragraph 13, which says in substance that the company, on October 29th and from then until about November the 10th of 1969 shut down the plant and laid off

employees in order to discourage their membership in the union. Did you ever shut this plant down between October the 29th and November the 10th to discourage anybody's membership in the union? A. To my knowledge that's a fabrication of somebody's mind.

Q. Did you ever shut down the plant during this time to discourage any activity by any of the union or any of its members? A. No, sir.

Q. Relative to this charge in the complaint and after the charge was made did you ever have a conversation with Joel Goolst on this? A. Yes, sir, we did.

[215] Q. Can you tell me about— The charge in this case was filed on March the 15th, I believe, or March 17th. March 17, 1970, referring to a lockout on October 1st. But then the complaint says, which was issued in May, the 25th, refers to an October 29th layoff. Can you fix the date relative to any of those dates time-wise that you had this conversation with this man Goolitch? A. No, sir, I cannot. I have had a lot of conversations with him. But I unfortunately don't keep a diary like he does.

Q. Well, was it before or after these dates? Or do you recall? A. The conversation was the first time that Joel was in after we had become aware of the charge.

Q. I see. All right. Now, who said what on this occasion?

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[220] Q. (By Mr. Jenkins) Now, Mr. Gerlach, relative to the time of the charge of this case, which was March 17, 1970, and the date of the complaint, which is May 25, 1970, can you fix the time of this conversation with Mr. Goolst? A. The first time he was in to see us after the complaint was in our hands and I had knowledge of it. I don't know the date, sir.

Q. Now, on this occasion can you tell the Trial Examiner what you said and what Mr. Goolst said?

Mr. Rubenstein: I would like the record to show that the man's name apparently to whom he is referring is Mr.

Goolst, who previously testified and not Mr. Goolitch. I don't know. He apparently has difficulty with Mr. Goolst's name.

Trial Examiner: I understand. I understood it to be Goolst, even though the pronunciation was different. That is the man you are referring to, isn't it?

Mr. Jenkins: Yes, Your Honor.

Trial Examiner: I am sure the reporter will put it down as G-O-L-L-T-Z.

The Witness: Is it okey, sir, if I answer that?

Trial Examiner: Yes. Please do.

The Witness: I couldn't justify in my mind the reason for that to be on there.

Trial Examiner: Just what you said.

The Witness: And I asked Joel. I asked Joel what was [221] the reason that such a statement was put on there. And he said, also with a gesture, that we give them some and take some. I mean something to that effect.

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Q. (By Mr. Jenkins) Will you tell us what he said that you remember? A. He said it had no merit, that it was injected to give some and take some.

Q. When he said it was injected did he say who did it, who injected it? A. Well, I suppose it was—

Trial Examiner: Just what you remember.

[222] The Witness: —filed by the union.

Trial Examiner: He didn't answer it. Do you recall what he said or not? Not what you suppose.

The Witness: The only people that filed it was the union.

Trial Examiner: No. The question is did he mention any names at that time.

The Witness: Not that I recall, sir.

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Q. (By Mr. Jenkins) How many customers does your company have? A. Sir, we sell at all fifty states. I really don't know that. It's quite a number.

Q. There has been testimony in this case about Mr. Marcus in Cleveland. What is his relationship to the company? A. Mr. Marcus owns Stanley M. Fial Company, which is our principal supplier of work and has been for a great number of years. I assume him to be the owner and principle stock holder.

[224] Q. Do you get orders or business from other companies other than the Stanley M. Fial Company? A. We have in the past. We haven't in the last few years.

Q. Then are you saying that you really have only one customer, this Stanley M. Fial Company? A. For several years, sir.

Q. Now, in October or November of 1969 did any problem develop with respect to your production necessitating any layoff? A. Yes, sir; there did.

Q. Could you explain for the Trial Examiner what it was that happened at that time? A. The principle amount of our merchandise, or our dresses is merchandise through roto ads that appear in the Sunday editions of magazine sections of papers throughout the country. Our principle objective, of course, is to meet the ads, which is the big customers. And there is usually about one in every large town in every state. We usually run—

Trial Examiner: I am not interested in that. The question is what happened to cause you to have a layoff. You can answer that.

The Witness: All right, sir.

Trial Examiner: Was production low or what?

The Witness: No. No.

Mr. Jenkins: Tell us.

The Witness: The styles that we were necessarily supposed to be working on because of these scheduled ads, the piece goods wasn't available to us at that time.

The piece goods were supplied by Mission Valley Mills in New Brownsville, Texas. It's quite a long haul and there's quite a lot of problems concerning freight back and forth.

They sometimes over-extend their sales and for some reason delay delivery.

Q. (By Mr. Jenkins) Let me ask you this, are you telling us that you get cloth from Mission Valley? A. That's right. Mission Valley, New Brownsville, Texas. I think that's the way you pronounce it.

Q. All right. And what occurred important about this, if anything, in the fall of '69? A. The company, the Stanley M. Fial Company, we just mentioned, also started a new procedure of getting markers from a marker specialty house in New York. Now, a marker is a pattern that goes on top of the goods. And naturally they asked the pattern to be made on these styles that was scheduled for the immediate production and immediate sale. And that's the marker we got. And the goods was delayed. And for the reasons I don't really know about, but various reasons, to fit the markers.

[226] We had the plant full of other type piece goods for other styles that were in the line, but the markers were not made for it and were not marketable in our organization.

Q. Now, do I understand in your business that markers are patterns from which you cut dresses? A. Yes, sir; that's correct.

Q. Is it necessary that you have the right patterns for the right goods? A. Very much so.

Q. You can't use any kind of pattern on any kind of goods, is that right? A. Oh, no. The salesmen take the sample lines out far in advance us making the product. And they show people a certain style in a certain pattern and that's what they buy.

Q. Well, what problem developed then in the fall of '69, if any, about the markers and the patterns as they are called and the goods? A. Well, the mill just simply, for some reason, didn't deliver the goods. I assume they over-extended their sales.

Q. Now, what affect did this have then upon your production schedule? A. Well, the affect it had was that we

had markers for one print for goods that we didn't have and we had goods or prints we didn't have markers for. That was the beginning of the fall line.

[227] Q. In wheih case what happens? A. In which case we couldn't make dresses.

Q. I see. So you did what? A. So as the people run out of work on their particular operation they were stair-stepped out and called back in the reverse order.

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[228] Mr. Jenkins: Would you mark this?

(The above-referred to document was marked Respondent's Exhibit No. 1 for identification.)

Q. (By Mr. Jenkins) I hand you here Respondent's Exhibit Number 1 and ask you what that is? A. These are time sheets kept by our secretary of the factory, Katherin Stephens, for the stitch room employees.

Q. Is that the room where the people involved in this case work? A. For the greater majority.

Q. And would you explain what it is, I mean how the record is kept? A. It's a daily record showing the hours people work taken from the time card that's punched.

Q. What period of time does the record cover? A. This record covers October 1, '69 to November 29, '69.

Q. Does it list the names of the employees involved? A. Yes, it does.

Q. And it gives the hours that they worked? A. Yes, sir.

Q. By day each week? A. Yes, sir.

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Q. (By Mr. Jenkins) My question to you is, from the records, and then based upon your knowledge also, what transpired in October and November in connection with the production hours worked as related to this problem of the markers? A. There was a very short condition according to the records when some people didn't work a very short period of time.

Q. What period of time? A. Well, various people at various times. I don't hardly know how to answer that.

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(The above-referred to documents, heretofore marked Respondent's Exhibit No. 1, was received.)

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[233] Q. (By Mr. Jenkins) Now, during this period of time in October and November of 1969, Mr. Gerlach, were any of the production employees laid off when there was work for them to do? A. No, sir.

Q. If it appears from the records— A. I should qualify that.

Q. Yes? Go ahead. A. It may have been there is work for three but not long enough to last the full hours that the union says we should keep them. And then we let one finish up or something like that.

Q. Did you have any antiunion motive with respect to any layoff in October or November, 1969?

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The Witness: Absolutely not.

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[235] Q. (By Mr. Jenkins) Now, during this period of time was at any time this problem of the markers and the problem of the material straightened out or not? A. It will always be a problem.

Q. Pardon? A. There will always be problems. There's problems right now.

Q. Well—

Mr. Rubenstein: I presume then the answer is no.

Trial Examiner: The answer is no. All right.

Q. (By Mr. Jenkins) Well, what happened that enabled you to call these people back to work then? A. We received the piece goods. I received markers for the print we had in the plant.

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Q. (By Mr. Jenkins) Now, have there been other layoffs prior to this when you did not have the right match of markers and materials ? A. Yes, sir. About every season there's a mess. You know, getting started in them.

[236] Q. You characterize it as a mess? A. That's just one of those things. You don't get together. And start our new line, you know.

Q. And then has there been layoffs previous to this for this reason? A. Previous and subsequently.

Q. And there have been since this time? A. Yes, sir.

Q. Can you recall the last time, for example, that there was a layoff for this very reason? A. Yesterday.

Q. When? A. In our finishing room.

Q. When approximately? A. Yesterday, sir.

Q. Yesterday? A. Yes, sir.

Q. There was a layoff? A. Yes, sir.

Q. Just previous to that when did you have a layoff for this very same reason? A. Probably a week— Well, a week before vacation or something like that.

Q. When was vacation? A. Vacation week was the week [237] from August the— Some of the girls will have to tell me. I think this was the first back after vacation.

Q. So immediately prior to that? A. Yes, sir.

Q. And were there other layoffs in the spring of this year? A. Yes.

Q. For this very reason? A. Yes, sir; in certain departments of the plant.

Q. Were any of these layoffs in the same department that involves the people in this case? A. In certain classes. In other words, if we have a style that catches up on the darts, if we don't have anything out those girls will go home. But there will oftentimes be work for people that produce the things further on down the line.

Q. Do these layoffs create any particular problems from the company's point of view? A. Naturally you would rather be rolling full-tilt at all times, but they are an accepted fact in the business. I think it's universal.

Q. You mean other companies have exactly the same problems? A. I feel they do.

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Q. (By Mr. Jenkins) Did you ever make any statement to Mr. Goolst, either on December the 3rd or any other time, on the subject matter of whether or not these three ladies were eligible to return to work at the plant? A. I made statements to him.

Q. And what was your statement? A. The statements was we always need operators and two out of three of them was real good and anytime they would obey the same rules as the rest of them they had their job. And I also further stated that my father wanted a letter though from him to that effect.

Q. You said two out of the three were good operators. And you said— Who was it that could have their jobs any time? A. Either one of the three of them. I said, "We always need operators and two out of the three of them are tops."

Q. And you were referring to all three of them as being—
[241] A. Yes.

Q. —as being eligible? A. Yes, sir.

Q. Did you ever make a statement to Mr. Goolst about December the 3rd, or any other time, that the employees would not be reinstated, they would be hard to live with? Did you ever make that statement? A. Not that I recall, sir. Our position has always been if they would obey the rules they would have their jobs; the same rules as the rest of the girls.

Q. Mr. Goolst testified in a conversation he said occurred with you about December the 3rd that you made some comments on the subject matter of whether or not you wanted a union or not. Do you recall any such conversation on that general subject matter? A. Joel and I have friendly bantered each other about things like that. Even—

Q. Well— A. Even over lunch.

Q. You mean you are social friends as well as business friends? A. We have been at times.

Q. You eat together? A. We have once.

Q. Do you recall making any serious statement then to
[242] him— A. No.

Q. —relative to the union? A. Nothing other than horseplay.

Q. Was this— A. I mean he would say to the effect, hell, if I were in your position I wouldn't want a union either or my dad runs a shop or just horseplay.

Q. You say after the contract was signed you gave a speech welcoming the union in? A. Yes, sir; I joined them. I did my very best to do what I was instructed by them.

Mr. Rubenstein: Mr. Examiner, are we going to— At the beginning of our case, the Board's case, we attempted to put in some of the background, which frankly we thought was relevant.

Trial Examiner: Do you object to that question?

Mr. Rubenstein: Well, I object to the whole line of questioning. They have gone back to April. Merely on the ground that when we tried to put in the antiunion animus—

Trial Examiner: I will sustain the objection on the ground that what he did in April, or what he said before in favor of the union is not admissable. The question is did he say anything indicating antiunion animus on December 3rd. He denies it.

Mr. Rubenstein: That's the question.

[243] Trial Examiner: I'll deny that. I'll allow it, but the other part I will exclude.

This is the same as a civil case. And the fact that a party has been free from contributory negligence a thousand times is not admissable to show he is free at this time.

Mr. Rubenstein: I would also like to show, of course, the first witness, Mr. Goolst, had attempted to go into some background to show the purpose of this. The purpose of this was to show antiunion animus. And the Examiner said that he was not interested in that testimony either. So that is what we are not combating or sort of attempting

to combat, this matter which you now have permitted to go in.

Trial Examiner: I have excluded it. Let's go on.

Q. (By Mr. Jenkins) There was testimony by Mr. Goolst at this alleged December 3rd meeting to the effect that your father let King go, that this statement was made by you to Mr. Goolst, that your father let King go. Did you make any such statement at any time? A. Absolutely not. I've always said—

Trial Examiner: Then the answer is no. Let's not have any speeches.

Q. (By Mr. Jenkins) What did you say on that subject matter?

Mr. Rubenstein: When?

Trial Examiner: This is December 3rd, gentlemen.

[244] Mr. Rubenstein: Is it still December 3rd?

Trial Examiner: I assume so. If I am wrong correct me, Mr. Jenkins.

The Witness: Every statement I've made concerning it is that they abandoned their employment by their own action.

Q. (By Mr. Jenkins) Now, Mr. Goolst testified relative to an alleged conversation with you on November 19, 1969, on the general subject matter that before these girls would come back the plant would be closed down. Did you ever have any such conversation with Mr. Goolst and, if so, tell us what it was? A. Mr. Goolst—

Trial Examiner: The question is did you make such a statement.

The Witness: It is hard for me to understand when he is serious and when he's not serious.

Trial Examiner: Did you make a statement?

The Witness: In a serious statement, no.

Q. (By Mr. Jenkins) Have you ever had any conversation on this general subject matter with Mr. Goolst? A. I'm sure we have.

Q. Can you tell when and where and what the circumstances were? A. It's the— No. I don't keep a diary like [245] they do. But he nearly always came to my office.

Q. Yes. Well, do you remember any conversation at all on this subject matter? A. All the conversation we ever had was to the effect that they would have to, in order to come back, to obey the rules. And my father requested a letter saying they would. Joel assured me that they would come back and obey the rules, but he didn't come up with the letter.

Mr. Gravitt: With the what?

The Witness: He sad he could personally guarantee they'd obey the rules. Right?

Trial Examiner: With the letter.

Q. (By Mr. Jenkins) Well, what isn't clear to me, Mr. Gerlach, is whether or not there was any conversation that you can now recall with Mr. Goolst on the subject matter that you were going to close the plant down? A. To my knowledge Joel and I never discussed that. Because it was never a subject.

Q. Did you ever discuss it in a joking manner that you can recall? A. I'm sure we may have. Because we bat each other. Joel knows my health condition. I mean that's one reason he says these things I'm sure.

Q. Now—

[246] Trial Examiner: Just a moment, please. Not off the record.

Q. (By Mr. Jenkins) There was testimony by Mr. Goolst that he had a conversation with you about January the 12th of 1970 wherein he characterized that the company position had changed on this business of these three women. Do you recall any such conversation as that? A. No, sir. I can't put any of the dates down. I don't have—

Trial Examiner: It doesn't matter on the date. Did you ever say that to him?

The Witness: It may have been the time that we ate down at the Twin-Way Restaurant, where we tried to start talking and we were interrupted there and never got—

Q. (By Mr. Jenkins) Well, did the company ever change it's position? A. No. Not—

Q. Did you ever tell him this? Did you ever tell him that the company had changed it's position? A. No.

Q. Now, what, if anything, do you know relative to a company rule pertaining to under what circumstances employees may leave their work stations during working hours? A. The [247] rule has been in existence ever since I've been in the plant that nobody leaves the stitching room floor without permission. And I don't know of anybody ever abusing it. I don't know of anybody.

Q. Well, the rules of the plant, are any of the rules in writing? A. There have been in the past and have been posted. I don't think they have been since we've been in the new plant. But they were posted at the old plant.

Q. Was the old plant in a different location? A. Yes, it was.

Q. And what happened to the old plant? A. The old plant burned about three or four years ago.

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Q. (By Mr. Jenkins) Mr. Gerlach, in this complaint the government charges that on January 12, 1970 you threatened to [248] take reprisals against an employee because of her activities on behalf of the union. Now, this is in paragraph 8(c) of the complaint. What can you say about that? A. I don't recall the incident at all. And it must be something out of context.

Q. Do you even know what employee the government might be referring to? A. No, sir, I don't. I can't remember all that stuff. There's too many of them.

Q. Did you ever, at any time, threaten to, on or about January the 12th, take reprisals or make any threats to any employee because that employee was doing something for the union? A. No, sir.

Q. Now, directing your attention to October the 10th of 1969 were you present in the plant that day? A. Yes, sir; I was.

Q. Do you remember any incident at the plant pertaining to a piece work matter? A. Yes, sir; I do.

Q. Would you tell the Examiner what took place according to your memory?

Trial Examiner: Well, I am going to rule—I don't want to go into the merits of that. Just the fact that they spoke to him about piece work and then what happened after that. Don't go into what they said about piece work. But was there a talk about piece work? A. Yes, sir.

Trial Examiner: All right. Then go on from there, Mr. Jenkins.

Q. (By Mr. Jenkins) Can you fix the approximate time of the day? A. During lunch period.

Q. And then were you present in the plant on the afternoon during that day? A. Yes, sir.

Q. And do you recall any incidents pertaining to Catherine King? A. I recall the incident from word of mouth. I have no personal knowledge of that incident at all.

Q. Did you talk to Catherine King yourself that afternoon as you recall it? A. No, sir; not as I recall.

Q. Were you present at any meetings or discussion where she was present that afternoon as far as you can recall? A. Not that I recall, sir.

Q. Now, that was on the 10th of October. And on the following Monday, which I believe would be October the 13th, do you recall any discussions with anybody pertaining to Catherin King on that day? A. My father advised me of the events that [250] happened that morning.

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Q. (By Mr. Jenkins) Did you have any conversation that you can recall now the following day on Tuesday or on Wednesday or on Thursday relative to Catherine King and that rule? A. Well, of course on Thursday, that is the day that Martha and I had our confrontation. But I had no personal contact with Catherine King.

Q. What occurred on Thursday then with respect to Cochran?

Trial Examiner: Can I have the date on that, please?

Mr. Jenkins: Yes, sir. I think Thursday would be the 16th of October.

[251] Trial Examiner: All right.

Q. (By Mr. Jenkins) What took place with respect to Cochran on that day? A. I was in my office during noon hour having a conference with my son.

Trial Examiner: What happened? Never mind what conference you had. What happened between you and Cochran? What was said? Get right to the meeting.

The Witness: Martha Cochran came into my office when I was talking with someone else and asked me if I would discuss some grievances. In a very friendly manner I told her that I was going out of town and that I would be back Monday, I would take them up with her then.

I had already told the union about a month before that I had this convention that I was scheduled to at Kansas City, that I wouldn't be available for contact and—

Trial Examiner: Just the conversation, please. What went on between you and Cochran?

The Witness: I—

Trial Examiner: I know it's hard to do, but I've got to confine you, too.

The Witness: Yes, sir. I understand. She insisted that I take those grievances up at that time. And I told her I couldn't until I got back. And from there on she made an emphatic plea that I take them.

[252] Q. (By Mr. Jenkins) What did she say? Can you remember her words? A. I told her I didn't have time to take them up until I came back from that trip. And she said, "By God, you'll take time.", or something to that effect.

Q. And— A. I took that as a figure of speech. I didn't take it as a cuss word. I mean I just—

Q. Then what happened? A. Of course, and I further knew that—

Mr. Rubenstein: Objection.

Trial Examiner: Please just give the conversation. Or if no conversation then what did happen is what Mr. Jenkins wants. What did she do and what did you do? If nothing was said.

The Witness: After giving me the grievances, forcing them on me, she took out to the lunch room. And I went upstairs and pulled her card and came down and said, "Martha, you won't be working this afternoon." And she said, "You're firing me?" or, "Are you firing me?" And I said, "You just won't be working this afternoon. And I went on back to my office. That's the last of my knowledge with it.

Q. (By Mr. Jenkins) Now, did you have any further discussions that afternoon? This is now Thursday, October 16th, [253] that we are talking about. Did you have any further discussions that afternoon with Mrs. Cochran that you can recall now? A. No, sir; I did not.

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Q. (By Mr. Jenkins) Do you know Delila Mulford? A. Yes, sir.

Q. Have you ever cursed her? A. Not in the context of a cuss word. I may have used it as a figure of speech in some talk, which I do once in awhile.

Q. Does she use the same kind of language or do you know? A. To my knowledge, not—No.

Q. Do you ever recall any conversation with Delila Mulford on the subject of a plant closing on December the 1st? A. No, sir; I do not.

Q. Did the plant close December 1st? A. No, sir; It did not.

Q. There has been evidence in this case, I believe, that [254] the union filed a grievance over these three women. That's correct, isn't it? A. Yes.

Q. On the incidents that occurred in October? A. Yes.

Q. And they are the same subject matter of this proceeding here, right? A. Yes.

Q. And an arbitrator was appointed to hear that, was he not? A. Yes, sir.

Q. That matter is still pending? A. I don't know what the disposition has been.

Mr. Rubenstein: The matter is not still pending.

Trial Examiner: I don't care whether it is or not. I'll decide this case on the evidence before me.

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[255] CROSS EXAMINATION

Q. (By Mr. Rubenstein) Mr. Gerlach, you testified concerning a conversation that you had with Mr. Goolst sometime after May 25, 1970. This now being August the 5th could you tell us, be a little more precise as to when that conversation was? A. I think I qualified all of my statements that I don't remember any of the dates.

Q. Well, can you give us an approximate? A. What instance are you referring to, sir?

Q. I am now talking about the time when Mr. Goolst was supposed to have told you that the union really didn't think that this lock out was— A. That was the first time he came in [256] to see us after we had been served with that notice.

Q. The complaint? A. And it had that charge on it.

Q. The first time after the 25th of May? A. That he was in to see me. Yes.

Q. Well, suppose I tell you that he has not been in to see you since May 25th? A. Well, I would have to say that that charge came from somewhere that I saw. Because it was through some kind of correspondence or document or something that charge came up and I discussed it with Joel.

Q. Now, let me see if I can refresh your recollection. The last time—Suppose I tell you that the last time that Mr. Goolst spoke to you—

Mr. Jenkins: I object to this; him telling him.

Trial Examiner: I think that is a proper objection. I'll sustain it.

Mr. Rubenstein: All right.

Q. (By Mr. Rubenstein) Do you recall the time when Mr. Goolst and Angela Bambast, who is the manager of Upper South Department, international vice-president, were here? A. No, sir; I do not. I wasn't present at the plant at the time.

[257] Q. And you don't recall when that was? A. No, sir; I don't. If you want me to clarify I'll clarify it.

Trial Examiner: Mr. Witness, please.

The Witness: Okay.

Trial Examiner: I don't want to get any speeches about it.

The Witness: I just want to give the truth.

Trial Examiner: I don't care. You just answer the questions. You are not here to decide how you answer them, but only to answer yes or no or more fully if the question calls for it.

The Witness: I was just trying to help straighten the record.

Trial Examiner: You are not here to help straighten the record. You are here to answer questions. The lawyers will straigten the record.

Q. (By Mr. Rubenstein) Now, do you recall when Mr. Lowe, the man, the investigator from the Labor Board, was here? A. Yes, sir.

Q. You do recall? A. Middle of April. Yes.

Q. That's right. Now, this conversation with Mr. Goolst, did it take place before or after that, sir? A. Sir, it was the [258] first time after we had a document stating that. Now, that may be where I get that. That may not be from this government thing. It may be in that arbitration thing. But it was our first conversation we had after we had knowledge that that statement had been made.

Q. All right. A. Is that clear?

Q. Now, the paper requesting arbitration, the grievance that was filed, not only on behalf of these three, but on a number of other issues, do you recall that there was a letter requesting arbitration which listed not only the discharge

of the three people here, but the shut down of your plant at this time and some other matters? A. That may be the document we're talking about.

Q. Is that the document you're talking about? A. It's the first knowledge that I had of that statement on some document.

Q. Now, isn't it true that that document was filed in November of 1969? A. I'm not sure of the date, sir.

Q. It was filed at the end of 1969, wasn't it? A. If you say it was and have a document that was that document it was. I mean I don't know. Whenever it was it was.

Q. I see. So that you really, in this conversation with Mr. Goolst, that on direct examination you placed after May 25, 1970, may, in fact, have taken place in November of 1969? [259] A. I want to place it at the first conversation we had after I had a document stating that condition. That is where I'm placing it.

Q. So now that may have been an arbitration proceeding? A. It was on the first document that I received that had that condition listed on it.

Q. And the first document that you had which alleged that there was an illegal lockout, and I think that was the phrase that was used during that time period that is stated in this complaint, was in November of 1969? A. I'm not sure when it was. The document will have the date on it, sir.

Q. And there was, in fact, grievances filed on behalf of these employees on October the 15th, October the 16th, and October the 20th? A. Yes, sir. That's what Martha Cochran brought to me on the Thursday afternoon. Whatever that date is. At noon.

Q. And subsequent to that there were some other grievances that were given to you dated October 16th and October 20th, which were grievances on the actual discharge? A. They— If the 16th is Friday they couldn't have been given to me on the 16th. Because I was in Kansas City.

Q. No. The 16th was—I see. Well, the grievances are dated the 16th? A. Well, they apparently gave them to me

[260] sometime after that because I was in Kansas City on that Friday.

Q. And then you had discussions concerning these grievances, did you not? A. Yes, sir.

Q. Now, in the discussion of the grievances did you make it clear to the union that the girls could come back to work, that they hadn't been fired and that they could just come back to work? A. Yes, sir. It was very clear to them that all they had to do was obey the rules of the company. And my father asked Joel Goolst for a letter of that effect.

Q. Now, what do you mean by obeying the rules of the company? A. They know what they are. Anyone of them you want to put on the witness stand knows the rules of the company.

Q. I see. Now, this is no specific rule. This is just a general proposition that all the rules at the company, that they might have— A. The same rules that the other girls have to obey, abide by. The same rules Alice Hoschar and Virginia Holland abide by and Mary Joe Kitt.

Q. Now, what rule did Mrs. Cochran not abide by? A. Not reporting to work. She was given the afternoon off and she was supposed to go back into work.

Q. Your testimony is she was given the afternoon off? A. Yes, sir. Thursday afternoon.

Q. Right. And why was she given the afternoon off? A. Because of her conduct in bursting into my office when I wasn't available to talk with her.

Q. I see. A. And I assured her I'd talk with her the minute I got back.

Q. Now, the door was not closed, was it? A. I don't recall that, sir.

Q. And, as a matter of fact, did she not want to merely give you these grievances? That was the purpose of her visit? Was to hand you the grievances? A. No. I think she wanted to discuss them. I assumed she did. Most of them discuss them. They don't just hand them to you without any explanation or any discussion.

Q. Well, you testified that Mr. Cochran forced those on you and then left. What did you mean by that? A. I didn't—I wasn't willing to accept them and go into them right then. And she emphatically put them on my desk or something to that effect, sir.

Q. As a matter of fact you just weren't willing to accept them at all? A. Not then, no.

Q. That's right. A. I told her I would Monday.

[262] Q. And you would Monday? A. Yes, sir.

Q. You wouldn't even take these four or five pieces of paper that she had? You just didn't even want to take them? A. No, sir; not then.

Q. All right. A. Because I had plans made. And I had my son there. And I felt like I had an obligation to my son to do some explaining to him. And that's what I did.

Q. And because then she left these papers with you or insisted that you take these papers, that's when you gave her, according to you, the afternoon off? A. Because of her conduct and the way she handled it. Yes, sir.

Q. Right. Did you tell her this? That it is because of your conduct or— What did you tell her when you gave her the afternoon off? A. Because of her conduct and the way she handled it. Yes, sir.

Q. Right. Did you tell her this? That it is because of your conduct or— What did you tell her when you gave her the afternoon off? A. I just went upstairs and pulled her card. And I said, "Martha, you are to take the afternoon off." And she said, "Are you firing me?" I said, "No. You're just to take the afternoon off." And she kept trying to bait me to say she was fired. And I went on back to my office. And that's the last I had. And that's the first confrontation I'd ever had with Martha.

Q. I see. Now, when she didn't show up the next day did you do anything about it? A. It was my understanding that that afternoon she—

[263] Trial Examiner: Wait until he finishes his question. I didn't get the end of the question.

Mr. Rubenstein: I haven't finished the question.

The Witness: I'm sorry.

Q. (By Mr. Rubenstein) When she did not show up the next time or the next day, or the next time that she was scheduled for work did you or did anybody in the company, to your knowledge, contact her and find out why she didn't come back? A. She had told us on the phone that if we wanted her we could call. And we assumed that was the reason.

Q. She had told you on the phone? A. She had told Katherin Stephens, our secretary, about one-thirty that afternoon, Thursday afternoon. She called in and said, "If you want me you'll have to call." That's what the secretary told me, sir.

Q. I see. But you don't know? A. She didn't talk to me.

Q. I see. A. No, sir.

Q. So, therefore, nobody did call her? A. No, sir. Not to my knowledge. I didn't.

Q. To your knowledge nobody called her after that afternoon— A. No.

[264] Q. —when you sent her home? A. No.

Q. All right. Now, back then with the rule apparently that you wanted Mr. Goolst to put in a letter to your father that she wouldn't burst into the office, or what rule did you want him to write in the letter? A. That they would obey the same rules that the other eighty or ninety people were. The same rules that the ones that were working would obey.

Q. And Mr. Goolst said, you said, "Well, of course they would obey."? A. He assured me personally that I could get them to obey the rules. And my father then asked him, he said, "Put it into a letter form."

Q. I see. So you wanted it in a letter? A. My father did.

Q. Your father wanted a letter— A. Yes.

Q. —in which they would agree— A. To obey the same rules that the rest of the people did.

Q. —to obey the same rules as the rest of the people? A. That's right.

Q. Now, what rule did Catherine King violate? A. A request to have a conference with an employer.

[265] Q. Alone? A. Yeah. As she had done thousands of times.

Q. I see. Now, she did not refuse to have any conference with the employer. The request was that she have her steward present? A. To my knowledge that's what her request was. Yes, sir.

Q. And that is a violation of a company rule that an employee— A. No.

Q. —that an employee cannot have any— A. Oh, no.

Q. —that they must meet with them alone? A. No. We contend it is the management's right to have a personal conference with an employee. And if something there is said that is not right they have a grievance procedure to go through.

Q. I see. So that Catherine King then didn't really violate any rule? A. Well, she violated a rule by causing a disturbance on the floor and also by playing a radio.

Q. All right. A. We couldn't allow eighty people to play eighty radios, you see, on eighty different stations.

Q. I see. So the rule that Catherine King had violated was the conduct about which Mrs. Kathryn Gerlach has testified [266] previously that occurred on October the 10th; that is, the playing of the radio and the standing up and waving something and sassing the production manager? These are rules that she violated? A. Any conduct that would take these people—

Trial Examiner: The question is were those—

The Witness: All the production girls—

Mr. Rubenstein: Are those the rules she violated?

The Witness: He's leading me, sir.

Trial Examiner: You just answer the question. If you can't answer it say so. I don't care whether he leads you or not.

The Witness: Read the question back.

Trial Examiner: Repeat your question.

Q. (By Mr. Rubenstein) The question is, is the rule that Mrs. King violated about which you wanted this letter, or your father wanted this letter, is that the conduct about which Mrs. Katheryn Gerlach has previously testified to that occurred on October 10th? A. I don't want to preface somebody's testimony. If you'll ask me the question I'll answer it.

Trial Examiner: I think that's a proper reply.

Mr. Rubenstein: I think so.

Q. (By Mr. Rubenstein) Was the rule that she violated, [267] and about which this letter was supposed to cover, the question of playing the radio and her alleged disturbance of standing up and not doing production and her sassing the production manager? Are these the rules that she violated? A. That would be among them. Yes, sir.

Q. All right. Now, what are the other rules? You said among them. Are there other rules? A. Well, there's rules in the plant that you have to call in when you're off sick. And you ask for permission for dentist and doctor appointments. And that you— My father—

Trial Examiner: I am not interested in the other rules.

The Witness: He asked me.

Trial Examiner: The rules she violated.

Q. (By Mr. Rubenstein) I am talking about the rules that Mrs. King violated. There was a request made—you have testified that there was a request made of the union representative, Mr. Goolst, that before these people could come back there had to be assurance in writing— A. That they would obey the same rules as the others.

Q. —that they would obey the same rules as anybody? A. Right. That's right.

Q. And now I am trying to establish why you felt that this [268] was necessary for these three employees? A. Because we felt like they may not obey those rules.

Q. All right. And what did you— Why did you feel that Mrs. King might not obey those rules? A. Her conduct around the plant in my opinion.

Q. And this is the conduct of the playing of the radio, the sassing of the production manager, the failure to work and so on on October 10th and prior thereto, is that it? A. Yes, sir. (Nodded).

Trial Examiner: Don't shake your head.

The Witness: Yes, sir.

Trial Examiner: And the reason I say that is the reporter can't put that down.

The Witness: I understand.

Q. (By Mr. Rubenstein) And is it for this that—you have stated, I believe, that the reason Mrs. King is no longer, was no longer with the company after October 16th was because she would not go into the office and talk to management without her steward? Isn't that the reason? A. My father wanted to speak with her in a private manner. Yes, sir.

Q. Okay. A. About her conduct.

Q. And that's why she is no longer there? Because she [269] refused to— A. No. The reason she is no longer there is because she abandoned her job. She left the plant and didn't come back to work.

Q. Well, her card had been pulled, had it not? A. We do that on every absent. That's a—

Q. No. Her card— A. In other words another employee might punch an absent girl's card or something, you see. Punch it to foul up the bookkeeper.

Q. Well, she sat there all day waiting for her card, didn't she? She sat there and she waited? A. I don't know what she waited for. You'd have to ask her that.

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[274] Q. (By Mr. Rubenstein) You have stated, I believe, that there are grievance forms and these are the grievance forms that Martha Cochran brought to you that particular day; that is, October 16th? A. No, sir. That is not true.

Q. She didn't bring you grievance forms? A. No. You said these are and I said those are not.

Q. I said grievance forms like these. White copies. A. No, sir.

Q. She did not bring you— A. Not any green ones.

Trial Examiner: Were—

Mr. Rubenstein: I said white copies.

Trial Examiner: Were they in writing?

The Witness: Yes, sir.

Q. (By Mr. Rubenstein) White copies? A. Yes, sir.

Q. Brought you white copies? A. Yes, sir.

[275] Q. Of a grievance? A. Yes, sir.

Q. Is that the usual method in which grievances are processed? A. Yes, sir.

Q. And— A. With the shop steward. Correct.

Q. With the shop steward? A. Yes.

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Q. (By Mr. Rubenstein) Did you talk to— The conversation on the 12th of January, do you recall talking to Mr. Goolst [282] about your conversation with Mrs. Bambast? A. I don't recall any of the details, sir. I've talked with him.

Q. You don't recall any of the details? A. I've talked with him many times.

Q. Do you recall talking to Mr. Goolst about the fact that you had requested him to come down because the company had changed its position? A. No. No. The words company has changed its position is something somebody is asserting. My contact—

Trial Examiner: The question was did you make such a statement.

The Witness: My contact with the union was in trying to settle the thing. And that's all.

Q. (By Mr. Rubenstein) Was trying to settle the thing? And that was the purpose, was it not, of the conversation with Mr. Goolst on January 12th, wasn't it, to settle this

case? A. An attempt to get the girls back to work. Yes, sir.

Q. And had you ever contacted the union prior to January 12th about an attempt to get the girls back to work? A. I've never personally called the union that I recall, other than the one time I tried to get in touch with Joel to see if we could get the girls back to work.

Q. Right. And that is in January— A. I'm not sure.

Q. —of 1970, but you're not sure of the date? A. No, sir.

Q. So that between October, when the girls no longer worked with the company, and on or about or around January the 12th—

Mr. Jenkins: I object to this. The use of the date on this and again he is just trying to—

Trial Examiner: He hasn't finished the question. I believe he is entitled to finish it.

Go ahead.

Mr. Jenkins: All right.

Q. (By Mr. Rubenstein) Did you talk to any representative of the union between the date that the girls were let go and this conversation with Mr. Goolst, regardless of when it occurred, did you have any other conversation with any union representative from the manager to a shop steward? A. If they were in the plant, other than the one time Miss Bambast was there. I recall missing her. But if they were in the plant I'm sure we talked.

Q. Well, that's not my question. My question is do you recall any conversations between the time the girls were let go and this conversation with Mr. Goolst, whenever it might have occurred, about settling the case or letting the girls go?

Mr. Jenkins: I object. It's immaterial.

[284] Mr. Rubenstein: It's not immaterial.

Mr. Jenkins: Conversations relative to trying to settle our case.

Mr. Rubenstein: There were grievances filed.

Trial Examiner: I'll allow it.

The Witness: The question again, sir?

Q (By Mr. Rubenstein) The question is do you recall any conversations between yourself and any union representative from the manager to a shop steward and anybody in between concerning the settlement of this case and having the girls go back to work between the time the girls were no longer working and this conversation of Mr. Goolst? A. I don't recall any conversation in any degree of detail. I have tried to get them back to work.

Q. All right. And was it at this conversation with Mr. Goolst that the question of the letter first came up? A. I'm not sure of the date of that letter. My father may be able—

Q. I didn't say that. I said was it at this conversation. A. I said I'm not sure of the date of that discussion about the letter.

Q. I see. It may have been after that? A. I'm not sure of the date, sir.

[285] Q. All right. A. Joel might give it to you.

Q. Now, as far as you personally are concerned the only one of the, shall we say, separations from employment of the company of the three people; Mrs. King, Mrs. Mulford, and Mrs. Cochran, that you personally had any part of play in was that of Mrs. Cochran? Is that correct? A. That's right. I suspended her for the afternoon and I went to Kansas City. I don't know why she didn't work on Friday. She'll have to answer that.

Q. I see. She already has. But you had nothing to do and have no knowledge of the basis on which Mrs. King or Mrs. Mulford did not— A. Other than conversations with my family.

Q. Yes. A. I have no knowledge.

Q. I understand that you did not make those decisions? A. No, sir. I may have discussed it with my folks, of course.

Q. What did you discuss with your folks? A. We discuss plant business every time we sit down, you know.

Q. Is it your testimony, and again I am not clear, that

you never had any conversations with Joel Goolst concerning plant closings or that you never had any serious conversation? A. Never in a context of doing it. Joel banters me a lot and I [286] banter him.

Q. So that it may have come up in what you though was a kidding manner? A. It's—

Q. Is that it? A. He's of that nature.

Q. I see. And you are, too? A. Yes, I am.

Q. So the conversations about which he testified are you saying may have occurred but in a— A. Out of context.

Q. —in a context different than what you— A. Yes. That's right. That's right. I don't deny that they may not occur.

Q. But— A. But not in that context.

Q. I see. A. I hope I don't have to guard everything I say to Joel from now on.

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Circuit Courtroom
Second Floor
County Courthouse
Point Pleasant, West Virginia
Thursday, August 6, 1970

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[293] **Lawrence R. Gerlach, Jr.**

was recalled to the stand as a witness by and on behalf of the Respondent, and was examined and testified further as follows:

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[308] Q. Well, now why—Would you explain again for the record why the shop did not work, why nobody worked the 3rd, 4th, and 5th of November? A. Yes, sir. We get our piece goods, or we got our particular piece goods that our ad styles were on at that particular time from Mission Valley Mills in New Brownsville, Texas. And they had apparently oversold their production, had some problem in

their production of the material. And, of course, there is quite a bit of transportation involved between here and there. And those being our ad styles and this, of course, being the beginning of the fall line, the parent company or Stanley M. Fial Company, of course, would have the markers [309] made on the ad styles and the advertised numbers. These ectochromes in the back of the magazine sections of newspapers are printed about two months in advance, you see. And you have to meet these dead lines in some way.

Now, naturally they would have the markers made on those ad syles first; although they ordered in goods for all the stock merchandise that sells around the ad merchandise, you see. All the floor merchandise.

Now, the condition was that we didn't get our ad material in fast enough to keep going on that, which is what we had the markers for.

Now, they did change the sy em at that time in getting their markers from a specialty house out of New York. Having the markers premade up there.

And although the plant was full of goods it was goods for the regular stock numbers that we didn't have the patterns for yet to cut. And, of course, that indication there that we went back, or whatever you say it was, the 4th or 5th or 6th, whatever it was, now either one of two things happened. Either they hurried up and got me a new marker for one of the patterns we had in the place, you see, or they flew in some goods to the airport or we got a shipment in some way from Texas.

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[313] Mr. Rubenstein: Mr. Examiner, I move at this point again to reject Respondent's Exhibit Number 1. It apparently does not stand for what the testimony yesterday seemed to indicate that it stood for.

There is no evidence that this is a record kept in the usual course of business. There is no explanation on the part of this witness as to what this exhibit is, why certain names

are on two pieces of paper representing November and they are not on the list of October.

Trial Examiner: Perhaps I was a little hasty yesterday in admitting it. Although I did ask the witness if it was made in the regular course of business. Perhaps I should have given you voir dire. And if I had I would have arrived at a different conclusion. Because I am convinced these are not made in the regular course of business, notwithstanding his conclusionary statement yesterday. So I will sustain your motion. It may go in the rejected exhibit file.

But since they have been thoroughly examined by Mr. Jenkins and you the Board will have the examination. So mark those rejected, Mr. Reporter.

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[344] **Mary Katherin Stephens**

was called as a witness by and on behalf of the Respondent and, after being first duly sworn, was examined and testified as follows:

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DIRECT EXAMINATION

Q. (By Mr. Jenkins) Miss Stephens, what is your position with the Quality Manufacturing Company? A. Secretary.

Q. And how long have you been secretary? A. Since 1937.

Q. Do you keep the records of the company? A. Yes.

Q. I hand you here Respondent's Exhibit Number 1. Do [345] you keep those records? A. Yes, sir.

Q. Is that a summary of the time cards? A. Yes, sir.

Q. What did you prepare that from? A. Payroll book.

Q. When did you prepare it? A. Well, the payroll is every two weeks.

Q. I see. Do you recall exactly when you wrote out these records, if you did? A. No, I don't recall when those were written.

Q. Is it your writing? A. Yes, sir.

Q. Do you have any idea about how long ago it was? A. No. I can't remember when they were done.

Q. Recently? Or you just don't remember at all? A. I just don't recall.

Q. I see. Do you know, do they correctly reflect what the payroll book shows? A. Yes, sir.

Q. I see. Were there any names left off of there that were on the payroll book that you recall? A. Well, I believe the cutting room was left off.

Q. Did they work during this period? A. Yes, I think they did.

[346] Q. I see. Do you know how that occurred? A. No. I just must have overlooked it when I was copying them off.

Q. I see. Who is in the cutting room? A. Hobart DeWees, Jr., Pauletta Greenless—

Q. About how many employees? A. Around six I believe.

Q. I see. They are on one month's records there but they are not on the other, is that it? A. Yes, sir.

Q. Are they all together in the payroll book or on a separate page? A. No. They're at the end. All the machine operators are on alphabetical order.

Q. I see. And the ones that were left off were at the end of the payroll book? A. Yes, sir.

Q. I see. Now, Miss Stephens, I want to direct your attention back to the month of October of 1969. I presume that you know Delila Mulford and Catherine King and Martha Cochran, do you? A. Yes, sir.

Q. Now, directing your attention back to that period of time and then particularly I want to direct your attention to a day, [347] a Friday, October the 10th. Do you recall any incidents that occurred that day involving any of those people and any of the people in the management of the company? A. Yes, sir. Catherine King and Delila Mulford came down to the office.

Q. Do you have any recollection of what part of the day that was in? Or do you remember? A. It was in the afternoon sometime, but I don't remember what time it was.

Q. You saw them come to the office, I take it? A. Yes.

Q. Who was there? A. When they came down?

Q. Yes, ma'am. A. Just Mr. Gerlach.

Q. All right. Did anybody come with them? A. No, I don't believe they did at that time.

Q. I see. Did you see Mr. Gerlach there or not? A. No. I don't believe she came down then.

Q. You didn't see her? A. No, sir.

Q. All right. Now, what took place there, if anything, that you observed or heard? What conversation? A. Well, Mr. Gerlach told—

Trial Examiner: Mr. who?

The Witness: Mr. Gerlach.

[348] Trial Examiner: Yes. Will you speak up, please?

The Witness: All right, sir.

Asked Catherine King to come in, that he wanted to talk to her a couple of minutes.

Mr. Jenkins: Yes.

The Witness: Before she went back upstairs. And Delila was with her. And he asked her what she was doing down—

Mr. Jenkins: Speak up now so that we can hear.

The Witness: He asked Delila what she was doing down there with them and she said she came down with Catherine. And he said that was against the rules, that she wasn't supposed to come off the floor.

Mr. Jenkins: Yes.

The Witness: And she said she would come off any time that she wanted to.

Mr. Jenkins: Yes.

Q. (By Mr. Jenkins) And then what next did you hear? A. Well, he said, "Well, go back upstairs." And he would see what he would do about it. Think it over.

Q. Did he make it clear who was to go back upstairs or one or both or do you have any recollection? A. He said he wanted to talk to Catherine alone.

Q. Yes. Well, after he made this statement about going [349] back upstairs what happened? Did anybody go upstairs? A. Yes. They went back upstairs.

Q. Who? Both of them? A. Both of them.

Q. And do you have any recollection of any conversations like in the following week between these same parties or Mr. Gerlach? Do you remember anything else that happened? A. Yes. They came in on Monday.

Q. And who is this "they"? A. It was Catherine King and Martha Cochran.

Q. All right

Trial Examiner: Catherine King and who?

The Witness: Martha Cochran.

Q. (By Mr. Jenkins) I see. And when you say they came in where is it they— A. They stayed out in the lobby.

Q. Of the plant? A. Yes.

Q. And were you there? A. Yes, sir.

Q. And who else was there? A. Well, I don't recall of anybody else being in the office right at that time.

Q. Was anybody else around? A. No. I don't believe [350] Mrs. Gerlach was there at that time.

Q. All right. Was Mr. Gerlach there? A. Yes, sir.

Q. Do you remember anybody else being there except yourself and Mr. Gerlach and Catherine King and Martha Cochran? A. No.

Q. Just the four of you there? A. Just the four.

Q. What do you remember, if anything, was said at that occasion? A. Well, he asked Catherine King to talk to her a couple of minutes.

Q. Yes? A. And she wouldn't come in. And Martha said no she couldn't come in alone and that she would have to talk with her.

Q. What was said after that? A. So he asked, he offered them their cards—offered Martha her card upstairs.

Q. Yes? . And she refused it. So they stayed in the factory until three o'clock that day.

Q. What is this card you're talking about? A. The time card.

Q. And then you say they did what? A. They stayed at [351] the plant all day up until three o'clock that evening.

Q. This is Cochran and King? A. Yes, sir.

Q. Whereabouts in the plant did they stay? A. They stayed over in the restaurant part.

Q. Stayed over in the restaurant? A. Yes.

Q. I see. Did you overhear any other conversations between them that day and Mr. Gerlach or anyone else? A. No, I never heard any more that day.

Q. All right. Now, go on. Did you hear any other conversation? What happened the next day, if you know? A. Well, they came in the next morning and—

Trial Examiner: Just for my own records is this October the 11th you are talking about now?

Mr. Jenkins: I think so.

Mr. Rubenstein: No. No.

Trial Examiner: Mrs. Stephens has previously told me she was bad on dates. So I haven't asked her specifically.

Mr. Rubenstein: I think it's the 13th. The 10th is a Friday, so the next day would have been a Monday.

Trial Examiner: It doesn't matter. I wanted to know what the next day was.

Mr. Jenkins: Yes. Thank you, Your Honor. I'll see if I can—

[352] Q. (By Mr. Jenkins) This first-day-conversation when you say you remember that Delila Mulford was there, you say? A. Yes.

Q. And Catherine King. Do you have a recollection of what day of the week that was one? A. That was on Friday.

Q. On a Friday? A. Yes, sir.

Q. Now, you have told the Trial Examiner about something that happened on another day, the next event. What day would that have been? A. That was the Monday.

Q. The Monday following? A. Yes, sir.

Q. Well, then if Friday was October the 10th that would be the 13th? A. 13th.

Q. All right. Then you have told us about the 13th. Now, do you have any recollection of what, if anything, occurred the following day between them, which would be the 14th of October, Tuesday? A. Well, Catherine—

Trial Examiner: Just to get my records clear, this con-[353] versation that she heard King and Cochran engage in with Mr. Gerlach was the 13th, is that it?

The Witness: Yes.

Trial Examiner: I want to be sure. Now we're on the 14th. All right. Thank you.

Mr. Jenkins: Tell us.

The Witness: Catherine King and Martha Cochran came in on Tuesday morning.

Mr. Jenkins: Yes. All right.

The Witness: And he asked Catherine to talk to her a couple of minutes.

Mr. Jenkins: Yes.

The Witness: Before she went upstairs.

Mr. Jenkins: Yes.

The Witness: And Martha said no, she couldn't talk to him alone. She'd have to be with them.

Mr. Jenkins: Yes.

The Witnes: So he said, "Well, you'd better take your card and go on upstairs to work."

Q. (By Mr. Jenkins) Yes. Now, who did he say this to? A. To Martha. But she refused to go.

Q. Then what else was said? A. He—

Q. If anything. A. And so they went on out. They went out that day.

[354] Q. They did not stay at the plant that day? A. No, sir.

Q. This is Tuesday, the 14th, I believe, of October. Then do you have any recollection of anything that happened on the subject matter the following day, which would be Wednesday, October the 15th? A. Wednesday.

Q. Yes, ma'am. A. Well, Martha Cochran and Delila and Catherine King came in on Wednesday.

Q. Yes. A. And Mr. Gerlach—Delila Mulford took her card and she went on upstairs to work.

Q. Yes. A. And Mr. Gerlach asked Catherine to talk to her a couple of minutes.

Q. Yes. A. And Martha said, "No, she couldn't." She'd have to be in there with them.

Q. Yes. A. Or she was going to stay with them.

Q. Yes. Thar' you. A So they—

Q. What happened after that on Wednesday, if you remem- [355] ber? A Well, they went home that Wednesday.

Q. All right. Do you remember any conversations or anything that took place the following day, which would be Thursday, the 15th? A. On Thursday?

Q. Yes, ma'am. A. Well—

Mr. Rubenstein: The 16th. Mr. Jenkins, I think it's the 16th.

Mr Jenkins: Yes. Your're right. Thank you.

Mr. Rubenstein: Yes.

The Witness: Martha Cochran and Catherine King and Delila Mulford came in on Thursday.

Mr. Rubenstein: Would she keep up her voice, please?

Trial Examiner: Yes. You will have to talk louder. I can barely hear you and the lawyers are further away.

The Witness: I'm sorry.

Mr. Jenkins: All right.

Trial Examiner: Shout if necessary.

Mr. Jenkins: Real loud.

The Witness: All right, sir.

Mr. Jenkins: October 16th, Thursday.

The Witness: Well, Martha and Delila and Catherine King came in on Thursday.

Mr. Jenkins: Yes.

[356] The Witness: And he offered them their cards. And Martha took her card and went upstairs to go to work.

Mr. Jenkins: Who did he offer the cards to on Thursday?

Trial Examiner: Who is Martha?

The Witness: Martha Cochran. He offered the card to Martha and Delila.

Mr. Jenkins: All right.

The Witness: And Catherine. And he told Catherine he would have to talk to her a couple of minutes.

Mr. Jenkins: Yes.

The Witness: And Delila said she couldn't talk with him alone.

Mr. Jenkins: Yes.

The Witness: Martha went to work.

Mr. Jenkins: All right.

The Witness: And so as they were going out the door, starting out, he said, "Now, if you go out the door this time I consider that you have abandoned your job as I have put up with you for a week on this."

Q. (By Mr. Jenkins) Now, who did he make this statement to? A. He made that to Catherine King and Delila Mulford.

Q. Did they make any reply? A. No. I didn't hear it [357] if they did. They might have said something, but I didn't hear it.

Q. All right. Do you know what they did? A. They went home, I guess.

Q. They left the plant? A. They left the plant at that time.

Q. Going back to Monday, that day when you said that Mrs. Cochran and Mrs. King had a conversation with Mr. Gerlach on this subject matter, do you remember any reference or statement that Mrs. King made about Mr. Gerlach? A. Oh, he had to go to the hospital for his check up that morning and as he was going out the door she called him hog.

Q. Called him what? A. A hog.

Q. Did he make any reply when she called him a hog? A. No, sir; he didn't.

Trial Examiner: Which one called him a hog?

The Witness: Catherine King.

Q. (By Mr. Jenkins) And this had happened on Monday? A. Yes, sir.

Q. Now, I want to direct your attention to this Thursday. You have told us about this conversation on Thursday, October the 16th, at the plant. Was there any other conversations with any [358] of these people, either in person or on the telephone later that day? A. Yes, sir. At about two o'clock Martha Cochran called in and she said, "I'm not coming back. But you'll have to call me when you want me to come in."

Q. I see. Now, did you—There has been testimony in this case here—Well, strike that. Let me ask you this way. Did you get any instructions from Mr. Gerlach as to any comments you made on the telephone? A. No, sir.

Q. Did Mr. Gerlach, for example, tell you what to say on the telephone or anything? A. No, sir.

Q. I see. Now, tell me again what it was that Mrs. Cochran told you on the telephone. A. She said, "I am not coming back. You will have to call me when you want me."

Q. Who initiated this call? Did you call her or did she call you? A. No. She called me.

Q. I see. What else was said, if you remember? A. That was all that was said.

Q. I see. Mrs. Stephens, are you aware of any rule at the company pertaining to the circumstances when an employee may leave the sewing room floor? A. They have to have permission to leave the floor.

[359] Q. How long has that been going on? Do you know? A. Well, that's been going on ever since I've been there.

Q. You have been there for how long? A. Since '37.

Q. During that period of time has there ever been an instance that comes to your attention when an employee has left the sewing room floor without permission? A. No, sir.

Q. Or at least as far as you know? A. As far as I know, yes, sir.

Q. One thing I want to be sure of. You testified a minute ago about a statement that Mr. Gerlach made on Thursday, the 16th of October, when Mulford and King were there in the morning. A. Yes, sir.

Q. All right. Relative to their abandoning their jobs. Now, I want to be sure. When he made this statement to them did they make any reply to them at all that you— A. If they did I didn't hear any.

Q. You didn't hear any statement back? A. No, sir.

Q. And what did they do then? A. They went out the front door.

Q. How soon after this conversation was this departure? A. They went right then.

[360] Q. Immediately? A. Yes.

Q. He made the statement and then they went out the door? A. They went out, yes.

Q. And you reported you heard other conversations, the words that they said that day, is that right? You heard both sides of the conversation? A. Yes, sir.

Mr. Jenkins: I have no further questions.

CROSS EXAMINATION

Q. (By Mr. Gravitt) Miss Stephens, you don't supervise the production floor, do you? A. No, sir.

Q. You really don't know when the girls leave or come or go or anything about that, do you? A. I see them when they go out the front door.

Q. If they didn't go out the front door you wouldn't know whether they left the floor or not? A. Well, they go out the front door.

Q. Beg pardon? A. They go out the front door.

Q. When they go to the rest room and everything they go out the front door? A. No. Not—Whenever work is over they go out.

[361] Q. There are times when they leave the floor and don't go out the front door and you don't observe them, isn't that right? A. Well, they don't come off the floor. I mean they go out the front door when they leave the plant.

Q. I see. But you don't supervise the production area? A. No, sir.

Q. I see. And do you recall Mr. Gerlach, Sr. telling King once or probably more times than that that until she talked with him alone she couldn't go to work, right? A That's right.

Q. And he never did change that position as far as you know, did he? A. No.

Q. You're not in this bargaining unit? You don't belong to the union, do you? A. No, sir.

Q. And Mulford is not your chair lady, is she? A. No, sir.

Q. She is the chair lady of some other girls in the— A. I don't know.

Q. —in the bargaining unit? You don't even— A. I don't know.

Q. You don't even know if there is a union there at the [362] plant? A. I know there's a union there. But I don't know who the officers are.

Q. You don't know any of the officers at all? A. No.

Q. Not one officer in the union? A. Only what I've been told.

Q. Only what you've been told? A. Well, yes.

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Q. (By Mr. Gravitt) Did you ever hear Mr. Gerlach, Sr. refer to King, Mulford, or Cochran as trouble makers? A. Not particularly I haven't.

Q. What did you hear him say about them over these grievances? A. Well, he just wanted to talk to them.

[363] Q. Alone? A. To Catherine King alone.

Q. Now, in the office where you work you frequently call girls back to work after they have been laid off, don't you? A. Yes, sir.

Q. In fact that's part of your job? A. Yes, sir.

Q. You do most of it, don't you? A. Yes.

Q. And you never did call Cochran back to work, did you? A. No, sir.

Q. Beg pardon? A. No, I didn't.

Q. Mulford either, did you? A. No, sir.

Q. King? A. No, sir.

Q. Do you have any explanation as to why you didn't call them back to work? A. Well, they left on their own.

Q. And Mr. Gelach had told you not to call them back, is that right? A. I was never instructed to call them back.

Q. You made the decision yourself not to call them back? A. No, I didn't.

[364] Q. Well, how did the decision come about? A. Well, when I'm told to call them back I call them back. And I was never told to call them back.

Q. I see. But you do remember Martha Cochran telling you to call her when they wanted her to come back? A. Yes, sir.

Q. And you didn't call her? A. No, sir.

Mr. Gravitt: No more questions.

Trial Examiner: Go ahead.

CROSS EXAMINATION

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[365] Q. (By Mr. Rubenstein) When people are off from work how do they come back? A. Well, when they are laid off I call them back when I'm asked to.

Q. Now, are there other circumstances when they might be off? A. Well, when they're off on their own, well, they usually call in and say when they're ready to come back.

Q. And what do you mean by off on their own? A. Well, they're off ill. They're off for something else. I don't know just what.

Q. I call your attention to Friday, the 10th, when Mrs. Mulford and Mrs. King came down to the office. Were you there when they came into the office? A. Yes, sir. They

didn't come into the office. They didn't come in to the office. They came to the door.

Q. And who was with them? A. Just those two.

Q. Did you not see Mrs. Gerlach? A. Well, she might have been in the back. Now, I don't know.

[366] Q. Well, let me ask you this. Did Mrs. Gerlach talk to Mr. Gerlach? A. At that time?

Q. Yes. A. No, sir.

Q. In other words, you were there? Let me place where you were. Where were you when these two girls came in with reference to Mr. Gerlach? A. I was sitting in the office at my desk.

Q. And where was Mr. Gerlach? A. He was sitting back at his desk.

Q. And that is sort of behind you? A. Yes.

Q. With reference to where the girls were coming from? A. Yes.

Q. Is that correct? A. Yes.

Q. And you saw the two girls come into the outer door or come to the door? A. Yes, sir.

Q. And then what happened? A. Well, that's when Mr. Gerlach asked Catherine King to talk to her for a couple of minutes before she went back upstairs.

Q. Now, how long had you been there sitting at that place? A. Well, that's where I sit.

[367] Q. Yes. But how long had you been there at that time? A. Well, I had been there all afternoon, I guess.

Q. Had Mr. Gerlach been in his office all afternoon? A. Well, I think so.

Q. Had you see—Let's go back, say, fifteen minutes or so prior to this incident. Had Mrs. Gerlach come into the office and talked to Mr. Gerlach at that time? A. Well, I don't recall. She may have, but I don't recall.

Q. You don't recall? A. No, sir.

Q. Then you do not recall Mrs. Gerlach coming into the office? Now, I am talking at the time that Mrs. Mulford and Mrs. King were there. Coming into the office and

discussing anything at that time with Mr. Gerlach? A. I don't recall if she did. She may have. Now, I don't know.

Q. Do you have any knowledge of what Mr. Gerlach wanted to talk to Mrs. King about? You said that, you know, he wanted to talk to her alone. A. No, I don't.

Q. You have no idea? A. No, sir.

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[368] **Mayme Taylor**

was called as a witness by and on behalf of the Respondent and, after being first duly sworn, was examined and testified as follows:

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DIRECT EXAMINATION

Q. (By Mr. Jenkins) Mrs. Taylor, you work at the Quality Manufacturing Company? A. Yes, sir.

Q. Do you recall about how long you have been there? A. Since 1940.

Q. Did you ever have any position of authority in this union? A. At one time I was president and one time I was secretary and treasurer and one time I was chair lady.

Q. That is the same union that is involved here now in this proceeding? A. Yes.

Q. What part of the plant do you work in, Miss Taylor? A. Sewing plant part.

[369] Q. Do you know Catherine King? A. Yes, sir.

Q. Where do you work in relation to where she works? A. Where does she work? There's a machine between her and I.

Q. She is one machine away from you, right? A. Yes.

Q. I want to direct your attention back to October of 1969, on a Friday, the 10th of October, and ask you whether or not you remember anything about an incident that afternoon involving Mrs. King and Mrs. Gerlach, Sr.? A. Well, they was—

Q. Do you remember something that happened that day? A. Yes.

Q. You remember it? A. Yes.

Q. All right Now, would you tell the Trial Examiner what it is that you do remember happening? A. Well, they was—Catherine was throwing her hands around. And Miss Gerlach come over there and asked her what was the trouble. And she told her that it was none of her business.

Q. You heard her say this? A. Yes.

Q. All right. What happened next? A. And then Mrs. Gerlach took Catherine downstairs Now, I won't say whether— She took her down the stairsteps. Now, whether she went into the office with her or not I don't know.

Q. You were still working? A. Yes.

Q. Did you hear any conversation about the arrangements to go downstairs? I mean anything said about that? A. Well, Delila Mulford was sitting right across from Catherine.

Q. Yes. A. And she said, "I'm not going down without Delila. Come on, Delila."

Q. Who said that? A. Catherine

Q Did you hear—Did Mrs. Gerlach say anything? A. And then Catherine went over to Delila's machine and said—I think she said, "You stay right here at your machine."

Q. Who said this? A. Mrs. Gerlach.

Q. She said that to who? A. Delila.

Q I see. Did Delila say anything? A. No. She just got up and went downstairs with Catherine.

Q. Now, prior to this incident that you have told about [371] do you remember any incident occurring with Mrs. King with respect to a radio? A. Yes.

Q. About when in relation to this Friday incident you have just told us about was the radio incident? A. Well, now I wouldn't—A week or two.

Q. A week or two what? A. Before.

Q. All right. What happened on that occasion? A. Well, Catherine brought her radio in one day and was playing it, and Miss Gerlach asked her to not play it.

Q. Who did? A. Mrs. Gerlach.

Q. Asked Catherine not to play it? A. Yes.

Q. All right. A. And she went ahead and played it anyhow. And when she come back upstairs from downstairs at noon she turned it on still louder.

Q. All right. Do you—Did you hear any conversations during the noon hour? A. No, I—

Q. From Catherine King? A. At that time I was going outside for my dinner.

Q. I see. All right. Did you hear Miss King say any- [372] thing about what she was going to do with the radio? A. Only that she turned it up louder when she come back upstairs at noon.

Q. I see. Now, after this incident when she was waving her hands on Friday do you recall any incident or a discussion any time after that with Martha Cochran the following week? A. Well, I don't remember just exactly when that, what day it was. But I was in the office talking to Mr. Gerlach.

Q. About what time of the day was it? Do you remember? A. Noon hour.

Q. During the noon hour? A. Yes.

Q. All right A. And I was in the office talking to Mr. Gerlach on my, our affairs.

Q. Yes. What Gerlach was this, Senior or Junior? A. Mr. Gerlach, Sr.

Q. Senior? A. Yes.

Q All right. How do you fix this day with respect to the hand-waiving day? How long after that was it? Or do you know? A. I haven't the slightest idea.

Q. All right. Go ahead. A. And Martha Cochran was [372] standing there at the hall door. And I was in the office talking to Mr. Gerlach, Sr.

Q. You said this was about the noon hour? A. Yes. It was the noon hour.

Q. All right. What did you see or hear? A. I heard Catherine say, or Martha say, "Now, you fired me, didn't

you? A. You got me fired, didn't you?" She was talking to Mr. Gerlach.

Q. Which? Junior or Senior? A. Junior.

Q. Junior or Senior? A. Junior,.

Q. Junior. All right. A. And—

Q Where was he? Junior? A. He had been back in his office. His office is back the other way. And he had been back there and come through there.

Q. Yes. A. And I don't know. He brought her card in.

Q. Yes. A. And give to to Mr. Gerlach. And when he went back out is when she told him that he had fired her.

Q. Yes. What did he say? A. And I didn't hear Junior say anything.

[373] Q. I see. What did you hear after that? A. And then I heard Catherine say that—I mean Martha say, "You haven't got sense enough to run a business." She said, "Why don't you get out and let somebody else run it?"

Q. All right. Now, did you hear Mr. Gerlach, Sr. say anything to Martha Cochran after she made that statement you fired me to Junior? Did you hear her make— A. No. It was just about time for the bell to ring at noon—

Q. Yes. A. —to go back to work. So I went on upstairs.

Q. I see. A. And I don't know what took place.

Q. Were the people still there? A. Were they still there after you left? Or do you know? A. I don't know. Because I went on upstairs.

Q. Did you ever hear Mrs. King say anything on the subject matter as to whether she was going to play the radio louder than ever before? A. No, I didn't.

Mr. Jenkins: I have nothing further to ask.

CROSS EXAMINATION

Q. (By Mr. Gravitt) Miss Taylor, when the union was in, say, prior to this time you were an officer in the union, is that right? A. Yes.

Q. And you were chair lady at one time, right? A. Yes.

Q. That is similar to the same position that Martha Cochran had before she was fired, is that correct? A. I didn't know Martha Cochran was ever chair lady.

Q. Oh, you didn't know that? A. No.

Q. You didn't go to the meeting where she was elected? A. I didn't know she was ever elected.

Q. You just don't have that much to do with the union? A. No.

Q. Is that right? A. At that time I didn't, no.

Q. I see. Do you know any of the officers in the union? A. Yes. I know why they are. Who they are supposed to be.

Q Who was the chair lady that you knew? A. Virginia Holland.

Q. She resigned, didn't she? A. Sir?

Q. Didn't she resign? A. Yes. Then I didn't know who was in after that.

Q. You just quit having anything to do with the union other than being a member, is that right? A. In fact, there wasn't [375] anybody elected that I knew of. So why would there be a chair lady?

Q. I see. No more questions.

Mr. Rubenstein: I have just one or two questions.

CROSS EXAMINATION

Q. (By Mr. Rubenstein) On the incidents on Friday, the 10th, when Mrs. Gerlach and Catherine King had that little bit of, that little discussion, could you tell us what you heard? What did Mrs. Gerlach say to Mrs. King and— A. She asked her what the trouble was.

Q. Yes. A. And King told her that it wasn't none of her—or to tend to her own business.

Q. King told Mrs.— A. Gerlach.

Q. —Gerlach— A. To tend—

Q. —to tend to her own business? A. I can put a swear word in there, which she used, but I don't want to use it.

Q. All right. She also used a swear word? A. Yes.

Q. All right. Then what happened? A Well, then Miss Gerlach said something about taking her downstairs

[376] Q. Did Mrs. Gerlach first say something about trouble making? A. No.

Q. Did you hear her say that? A. No. I've never heard her say that.

Q. Did'nt you hear Mrs. Gerlach say something to her about the fact that she, you were down there this morning complaining about your piece rate and here you are making trouble again? A. No. I never heard her say that.

Q. You didn't hear her say that? A. No.

Q. How long did this take, this incident? How long were they discussing before Mrs. Gerlach told Mrs. King to come down to the office? A. They wasn't discussing it very long.

Q. They weren't? A. No. Maybe a minute or two.

Q. Was it right after the time when Mrs. King said it's none of your blank business that they went downstairs? A. Yes.

Q. And at that point Mrs. King said—Well, I'm sorry. Mrs. Gerlach said, "Well, come on. Let's go downstairs"? A. Yes. Or go to the office?

[377] Q. Or go to the office? A. Uh-huh (Nodded).

Q. And that's when she said she wanted Delila to go? A. Yes.

Q. Now, the few days later, whenever it was when you were in with Mr. Gerlach, Sr., where was Martha when you heard her say that she was fired? A. In the doorway between the—I can explain it. There's a door here that goes to the restaurant and there's the offices over here (indicating). And she was standing at the restaurant door.

Q. And she was not in Mr. Gerlach's office at that time? A. No, not at that time.

Q. As a matter of fact, was she not then walking away from Mr. Gerlach— A. No.

Q. —, Jr.'s office. A. She was standing still at the door.

Q. At the door of his office? A. No. At the door of the restaurant. There's a hallway between there.

Q. I see. And then what did you see Martha Cochran do after she said this? A. She was still standing there when I went upstairs at the door.

Q. As a matter of fact, didn't you see her then leave?

[378] A. No, I didn't see her leave.

Q. Leave the plant. Didn't you make a statement to the National Labor Relations Board? A. Yes, sir.

Q. In that statement did you not tell the Board that you had seen Martha Cochran leave the plant? A. I did not.

Q. After she—You did not? You are certain? A. I did not.

Q. And— A. Because she was standing there when I went upstairs.

Q. In any event you did not see her in Mr. Gerlach's office? A. No.

Q. She was not in his office at that time? A. No, I never saw her.

Q. And she said words to the effect that she was fired? A. Yes.

Q. In a loud voice? A. Yes.

Q. And you did not hear Mr. Gerlach say anything? A. No.

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[379] **Virginia Holland**

was called as a witness by and on behalf of the Respondent and, after being first duly sworn, was examined and testified as follows:

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DIRECT EXAMINATION

Q. (By Mr. Jenkins) Mrs. Holland, last year and before that did you work for the Quality Manufacturing Company? A. Yes.

Q. Have you worked for them for some time? A. Twenty years.

Q. What kind of work do you do for them? A. I do darts.

[380] Q. Darts? A. That's the first operation.

Q. I see. Have you ever had a position with the union in this case? A. Yes. The day that the contract was signed I was on the negotiating committee. And then we went back up to the hall and they read the contract and they elected me—

Trial Examiner: Did you ever—

The Witness: —as chair lady that day. I was elected as chair lady that day.

Trial Examiner: Okay. Chair lady and negotiating committee?

The Witness: Well, I was on the negotiating committee, yes.

Q. (By Mr. Jenkins) I see. Then you were the first chair lady after this contract was signed? A. That's right.

Q. Is this the contract of April, 1969? A. That's right.

Q. Now, directing your attention to October the 16th, which was on a Thursday, do you remember any incident involving Martha Cochran and the Gerlachs on that day? A. Yes, I do. Part of it.

[381] Q. All right. What time of the day do you have this recollection of? A. It was on noon break when we were down for lunch.

Q. Now, where were you at the time? A. I was sitting in the cafeteria where we always ate our lunch at.

Q. Do you remember who else was around? A. Well, about everybody eats. Katheren Stephens and Eileen Likens and Virginia Birchfield.

Q. Was Mr.— A. And these girls here (indicating).

Q. All right. Were the two Gerlachs around anywhere, both Senior and Junior? A. Mr. Gerlach was in the office. Junior was back in his office.

Q. All right. And did you see Martha Cochran that day? A. Yes. She went back through to his office.

Q. All right. Tell the Trial Examiner what you saw and heard on that occasion? A. Well, now I don't know what was said back in Junior's office. But she came back out

there and I was sitting there. And she came out there and sat down in a booth here and I sat here (indicating).

Q. This "she" you are talking about is? A. Martha Cochran.

Q. All right. What happened? A. And she said, "My card probably will be pulled tomorrow."

Q. Yes. A. And about that time here come Junior out of the office, his office. And he went upstairs.

Q. Yes. A. And when he come back he had her card.

Q. Yes. A. And he took it in the office and come back.

Q. Yes. A. And come back to the door there and said, "Martha Cochran, you won't be working this afternoon."

Q. Yes. A. And she jumped up, sort of jumped out of the seat and said, "You won't be working this afternoon."

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[383] The Witness: She said, "You either fire me or lay me off." And he said, "I'm not doing either one."

Mr. Jenkins: Yes.

The Witness: Said, "I just told you you wouldn't be working this afternoon." And he went on back through.

Q. (By Mr. Jenkins) I see. Did she keep after him about this? A. Then she went to Mr. Gerlach's door there and was screaming and telling him, says "He fired me." And Mr. Gerlach said, "He never fired you. No such a thing." And she said, "He'll either fire me or lay me off." He said, "I'm not going either." He said, "He told you—

Q. Who is this that said this? A. Huh?

Q. Is this Junior or Senior? A. This is Mr. Gerlach.

Q. Senior? A. Yeah.

Q. All right. When you refer to him as Mr. Gerlach then you are always referring to Senior, I take it, is that right? A. Yes.

Q. And you call Gerlach, Jr., Junior? A. Yes. I call him Junior. That's right.

Q. All right. Fine. What did Cochran say to Mr. Gerlach, Sr.? A. She told him he didn't have good sense, he didn't have enough sense to run the plant and she

didn't see why he didn't give it up and let someone have it that could run it.

Q. Had he said anything to her to provoke this or did he say— A. I didn't hear him say anything to her then after she said that.

Q. And then what was said about being fired, if anything, between Cochran and Gerlach? A. Now—

Mr. Rubenstein: Which Gerlach are we talking about?

Mr. Jenkins: When—

Mr. Rubenstein: Because, frankly, I'm confused. I never heard him tell her she's fired.

Trial Examiner: All right.

Mr. Jenkins: I'll go back and clear that up.

Trial Examiner: All right.

Q. (By Mr. Jenkins) You made testimony here about Miss Cochran making the statement that somebody didn't have good sense enough to run the business. Who was she directing that to? A. Mr. Gerlach, Sr.

Q. Senior? A. Yes, sir.

Q. All right. Fine. And what was said, if anything, between them on this business of whether she was fired or not? A. You mean what did Mr. Gerlay say to her?

Q. Right. Either one of them. A. He never told her she was fired.

Q. And what did she say to him? A. She said, "You either fire me or lay me off."

Q. All right. Now, did he reply? A. He said, "I'm not doing either one."

Q. Yes. A. "That he didn't fire you."

Q. All right. And now do you remember any other conversations that afternoon at this particular time? A. No. It was about time for us to go on upstairs and we went on upstairs.

Q. Miss Holland, there has been some testimony in this case relative to a rule as to the circumstances when you can leave the floor, the sewing room floor up there— A. That's right.

Q. —during working time. Would you tell the Trial Examiner what you know about that rule, if there is such a rule? A. Well, it's always been a rule that you don't have the right to leave the floor without permission to leave. You have to ask to [386] leave the floor or if you have a doctor's appointment you either have to ask Mr. Gerlach, the office, or the supervisor on the floor. It's been a custom to do that ever since I've been working there.

Q. Is it a custom to leave the floor and go down to the office any time you wanted to without permission? A. No, it is not. No, it is not.

Q. And you served as chair lady yourself for this union. You said, I think, the first chair lady— A. Yes.

Q. —under the new contract. And up until what time did you continue to serve in this capacity? A. Well, it must have been the latter part of August or first of September, something like that. I don't just, you know, remember the date.

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Q. (By Mr. Jenkins) If there was a problem with, a disciplinary problem with any of the girls on the work room floor what was the custom as far, or any other problem or discussion, what was the custom as far as arranging for them to go to the office, if anything? A. You mean if I had a grievance of anything like that?

Q. No, no. If maybe a problem came up on the floor. Like the King situation to which you testified where she was waving her hands around. What was the custom about that. How was that handled as far as the supervisors there were concerned? A. Well—

Q Like Mrs. Gerlach, Sr. and so forth. A. You mean you want to know how she did or what she did with her?

Q. Yes. How was that usually handled? A. Well, she took her downstairs.

Q. Was that— A. See, I don't sit real close to her. And I saw the commotion and saw them going downstairs.

Now, I never heard no words involved. I just saw them going downstairs.

Q. I see. So actually then you don't know anything about [388] that incident? A. Not that incident, no.

Q. I see. Fine. A. Only just her waving her hands.

Q. When you were chair lady, Miss Holland, if occasion would arise for you to leave the floor during working time would you do it on your own? A. No. No, indeed. I never did leave the floor without permission. Never.

Q. Miss Holland—Strike that. Miss Holland, the last part of November—excuse me—the last part of October and the early part of November, last year, 1969, do you remember that there was a layoff? A. Yes, I do.

Q. For some people at that time? A. Yes.

Q. During that time—At that time were you still working in the sewing room? A. Yes.

Q. And that was the same place that Catherine King, Delila Mulford, and Martha Cochran worked, wasn't it? A. Yes. That's right.

Q. Do you have any recollection of whether or not you and the other girls in there were laid off at the same time and brought back at the same time or on a different basis? A. No, I don't. [389] Because I do the first operation and I'm the first one laid off.

Q. You were the first one laid off? A. If my operation runs out, unless I—you know, sometimes I'll do different operations. If I happen to help out on an operation they're behind on maybe I won't be laid off. But each girl goes as the job runs out.

Q. And you, on this time do you have any recollection of you being called back early or anything before the rest of these girls. A. No, I do not. Well, the dart girls are called back first, see.

Q. Yes. A. Whoever works on darts are called back first.

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Cross Examination

Q. (By Mr. Gravitt) Directing your attention to King and Cochran, would it be fair to say that you dislike those two people, don't you? A. No. I never disliked them. It's what they did to me.

Q. You had some kind of a falling out with them in October before they were discharged or a little before that? A. We— Yes. Me and King had a falling out.

Q. Well, that's all I wanted to know. A. That's right.

Q. And you had discussed grievances with the Gerlachs— A. Yes, I have.

Q. Just a moment now. I just haven't finished my question. I want you to hear it all.

—and left the floor during work time to have such discussions, didn't you? A. The only time that I ever—

Trial Examiner: Answer the question yes or no.

[391] The Witness: The only time I ever left the floor was when I was called off the floor or if we was down at noon. I discussed my grievances with him at noon or of an evening after work. He would tell the floor lady to tell me to stop in his office if he had a girl that had to come in his office for a grievance. And I stopped at his office as I'd be going out of an evening or if I would be down there and the union representatives were down there and I would stay over a period, a little over. But I never went off the floor without I was told to go off the floor. I never went off on my own.

Mr. Gravitt: I have no more questions.

Trial Examiner: Go ahead, Mr. Rubenstein.

Cross Examination

Q. (By Mr. Rubenstein) Miss Holland, I wish you would clear something up with me on the 16th. On the afternoon of the 16th, at lunch hour, where were you? A. I was— You mean—

Q. Yes. With reference to Martha Cochran and Junior. A. Yes. I was sitting right there. Right there in the cafeteria.

Q. You were sitting in the cafeteria. And how far is the cafeteria from Mr. Gerlach's office? A. Oh, I don't know just—

[392] Q. Approximately. A. —how far you'd say it was. It's not very far. But she was screaming to the top of her voice. I mean anybody could have heard her.

Q. Well, my question was approximately. A. Well, I don't exactly know just how far.

Q. Well, there is the— A. Here's the door (indicating).

Q. No. No. A. And the hallway.

Q. You are sitting— A. A hallway and a door.

Q. You are sitting in a booth? A. A booth.

Q. A booth? A. That's right.

Q. In a cafeteria? A. That's right.

Q. Were you sitting right by the door? A. Right close to the door, yes.

Q. And then there is a hall that way? A. Yes.

Q. And was the door open or shut? A. The door was open.

Q. And there's a hall— A. Both doors were open.

[393] Q. And then there's a hallway? A. That's right.

Q. And then you go into what, an outer office? A. Right here's the door (indicating) and you go in this hallway and there's his door to his office. And both of those doors were open.

Q. There are two doors. There's a door to Mr. Gerlach, Jr.'s office? A. Yes.

Q. And a door to Mr. Gerlach, Sr.'s office? A. No. Junior's office is in the back.

Q. It's— A. And Mr. Gerlach's office is in the front. And here is a door where you go into the cafeteria (indicating) and the hallway. And over there's the door that you go into his office on that side (indicating).

Q. And where was Mrs. Stephens now when this happened? A. She was sitting in the cafeteria. The same place that I was.

Q. She was sitting there in the same— A. That was during the noon hour.

Q. —the same place you were? A. Well, not exactly the same. No. But she was sitting there, you know.

Q. Now, you say Martha was sitting here with you? [394] A. No, sir. She was sitting in the booth with me. She was sitting in the booth with two or three other girls.

Q. With some other girls. And then what happened? Was she called into the office? A. No. She went back in his office and come back out there and sat down.

Q. Well, now wait a minute. She went back into whose office? A. Junior's.

Q. Into Junior's office? A. That's right.

Q. And was the door open or shut? A. Well, I don't know about his.

Q. All right. A. You see—

Q. So she went back into Junior's office? A. That's right.

Q. You didn't see her go in the office? A. No. Now, I don't know what was exchanged, words back there. Because—

Q. Well, I am not asking you what you heard now. I am just asking you what you saw. You saw her go back into Junior's office? A. She went back through there. I presume she went to his office, yes.

[395] Q. Right. A. Because his office is back there.

Q. But could you see back into where his office was? A. No. No. There is a door that closes back there.

Q. There's a door that closes? A. That's right.

Q. And then how long was it before you saw her come out? A. She wasn't back there very long until she came back out.

Q. And then she came back out of Junior's office? A. Yes.

Q. And then what did you hear? A. She sat down there and she said, "My card will probably be pulled in the morning."

Q. In other words she came out of Junior's office? A. That's right.

Q. And sat down where? A. By Vonna May Oliver.

Q. Back in the cafeteria? A. And the Belcher girl. That's right.

Q. Back in the cafeteria? A. That's right.

Q. So that what you are now testifying is that she went into Mr. Gerlach's office, Junior's? A. Junior.

[396] Q. Briefly. Then she came back out in the cafeteria and she said, "My card will probably be pulled."? A. That's right.

Q. Then what happened? A. That's when he come out and went upstairs and came back down, Junior. Junior with her card.

Q. Junior came upstairs and went back down? A. Yes.

Q. And then where did he go? A. He went to the office, to his dad's office and he came back there to the door and he said, "Martha Cochran," said, "you won't be working this afternoon."

Q. Now, this took place in his dad's office? A. No. He come back there to this door right here where it goes into the cafeteria.

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Q. (By Mr. Rubenstein) Now, where did he say this to Martha? Where was he saying it? A. Junior?

[397] Q. Yes. A. He said it right there in the door of the cafeteria.

Q. That's what I thought you said.

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Q. (By Mr. Rubenstein) So he was now standing at the door of the cafeteria and he called this into Martha where? A. That's where he told her, yes, she wouldn't be working that afternoon.

Q. In a voice I assume where everybody could hear? A. That's right.

Q. All right. Mrs. Stephens could hear and everybody— A. Well, all of that were sitting there heard it, yes.

Q. All right. And then what did Martha do? Martha is now sitting in a booth, is that right? A. Yes. She jumped

up out of it and went over to him and said, "That means I'm fired"? He said, "I didn't tell you you was fired." He said, "You won't be working this afternoon."

Q. All right. A. And she said, "Well, you'll either fire [398] me or lay me off."

Q. Now, this is Junior? A. That's Junior. That's right.

Q. And then what happened next? A. And then Junior just went on. He had a flight to go someplace and he went on.

Q. All right. A. And she went there to his office then, Mr. Gerlach's office there and that's when she began screaming at him.

Q. Mr. Gerlach, Sr.? A. Yes. That's right.

Q. Now, up to this time Mr. Gerlach, Sr. hadn't participated in this at all, had he? A. No. No. He wasn't out in there. No. He was in the office.

Q. He was in the office? A. In his office.

Q. And then what happened with respect to Mr. Gerlach, Sr.? A. Well, she went there to the door then telling him, said, "he fired me." Said— And Mr. Gerlach said, "He didn't fire you. No such a thing." And she said, "Well, you'll either fire me or lay me off." And he said, "I'm not doing either one."

Q. Well, could— I know that you may not be able to answer [399] this question, so if you can't answer it— Could Mr. Gerlach, Sr. have heard all of this? A. Yes, he could have heard it. Because the door was open to the office. And he was sitting right there in the office.

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Q. (By Mr. Rubenstein) So then there was this discussion between Martha and Mr. Gerlach, Sr.? A. Yes, sir.

Q. Is that correct? A. Yes, sir.

Q. And then what did Martha do? A. Well, now I went on upstairs then. It was our noon time and time to go upstairs and we went upstairs.

Q. Did you hear Mr. Gerlach, Jr., did he say something [400] about coming to work tomorrow? A. No.

Q. Or when she would come back to work? A. I never heard him tell her she'd have to work the next day.

Q. Pardon? A. No, I didn't hear.

Q. You didn't? A. No.

Q. You didn't hear when she was supposed to come back? A. Because when he said this to her about he wasn't going to give her no layoff slip and he didn't fire her we went on upstairs. It was time for us to go to work.

Q. Well, now that's Mr. Gerlach, Sr. who said that? A. Yes.

Q. But Mr. Gerlach, Jr.— A. No, I never heard him.

Q. He was the one who pulled her card, isn't he? A. Yes.

Q. And you didn't hear him say— A. No, I didn't.

Q. —anything about when she was due to come back to work? A. He just said, "You won't be working this afternoon." That's what he said.

Q. That's what he said, "You won't be working this after- [401] noon."? A. That's right. He didn't tell her she wouldn't be working the next morning.

Q. He didn't tell her she would, either, did he? A. Well, he just told her she wouldn't be working that afternoon. That didn't say she wasn't going to work the next day.

Q. Now, you testified, I believe, that with respect to this layoff that occurred in October, the end of October and the first of December, that each girl was laid off as her operation ends? A. Yes. That's the way they lay them off.

Q. That's the way you lay off. And that normally the first, the person who is at the beginning of the operation would be the first one laid off? A. Yeah. I do the first operation.

Q. And so you would— A. Unless I do another operation. I do different operations sometimes.

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[402] Q. (By Mr. Rubenstein) And when the layoff ends those who are at the beginning operations are the first called back? A. The beginning?

Q. The first operations— A. Yeah.

Q. —are usually the first or were the first called back? A. The beginning, yeah. The first operations are supposed to be called back, you know—

Q. First? A. First. Like darts.

[403] Q. All right. A. And if they're laid off they're the first.

Q. To be laid off? A. Yes. That's right.

Q. And what would the last operations be? A. The last is down to the buttonholes and buttons and hemmers and then finishers and pressers and those.

Q. And the first operation would be what? A. First operation is darts.

Q. It would be darts? A. Yes.

Mr. Rubenstein: I have no further questions.

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[404] **Maxine Hatfield**

was called as a witness by and on behalf of the Respondent and, after being first duly sworn, was examined and testified as follows:

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[405] DIRECT EXAMINATION

Q. (By Mr. Jenkins) Mrs. Hatfield, how long have you worked at the Quality Manufacturing Company? A. About five years.

Q. What kind of work do you do? A. I'm a presser.

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[408] Q. (By Mr. Jenkins) Now, do you recall— You've been here— Strike that. Do you recall the incident which occurred about noon on Thursday, I think the date has been fixed as October 16th of last year, conversations involving Martha Cochran and Mr. Gerlach, Jr. and Senior? Do you recall any of those incidents? A. Yes.

Q. Tell the Examiner what you remember of that occasion. And you might start by telling where you were. A. Well, I was in the lunch room with the rest of the girls.

[409] Trial Examiner: You were in what room?

The Witness: In the lunch room.

And Martha came from back towards Junior Gerlach's office.

The Witness: And she come up and sat down.

Mr. Jenkins: Yes.

The Witness: And we were sitting a few booths behind her, but we heard her make the remark that she'd probably get her card pulled.

Mr. Jenkins: Yes.

The Witness: Well, in just a little while Junior came out of his office and went upstairs.

Mr. Jenkins: Yes.

The Witness: He come back and went in his dad's office. That's Mr. Gerlach's office, Mr. Gerlach, Sr.'s office.

Mr. Jenkins: Yes.

The Witness: And he come back to the dor there and he told Martha, "You won't be working the rest of the day."

Mr. Jenkins: Yes.

The Witness: And she said, "Then I'm fired?"

Mr. Jenkins: Yes.

The Witness: And he said, "No, I didn't say that." He said, "I said you wouldn't be working the rest of the day."

Mr. Jenkins: Yes.

[410] The Witness: So then Martha went on in Mr. Gerlach's office.

Mr. Jenkins: Yes.

The Witness: Towards Mr. Gerlach's office.

Mr. Jenkins: Yes.

The Witness: At that time Mrs. Grimes and I got up and went in the cutting room to get material for the boards.

Mr. Jenkins: Yes.

The Witness: And Martha, we overheard Martha Cochran tell Mr. Gerlach he didn't have good sense.

Mr. Jenkins: Yes.

The Witness: And why didn't he get out and let somebody run the business that knowed how.

Mr. Jenkins: Yes.

The Witness: And we went on back upstairs. That's all I know.

Q. (By Mr. Jenkins) Was the conversation still going on when you left? A. Yes.

Q. Did you hear any other conversation between Cochran and Gerlach, Sr. on the business of whether she was fired or not? A. Yes. She said, "Then you fired me." He said, "No. I said you wasn't going to work the rest of the day."

Q. Now, she said this with who? Who was this talking on [411] this? A. What was Junior.

Q. Junior? A. Yes.

Q. Now, was this subject matter—in other words, was there any talk that you heard while you were present between Mr. Gerlach, Sr. and Mrs. Cochran about this same subject? A. No. We didn't. I didn't hear Mr. Gerlach because we didn't tarry that long.

Q. I see. You left with Mrs. Grimes, you said, and went back upstairs immediately? A. Yes. Yes.

Q. All right. A. Yes.

Q. And the conversation was still going on? A. Yes.

Q. Now, were you aware of any rule relative to leaving the sewing room floor during working time without permission? A. Well, just we weren't supposed to.

Q. That was your understanding? A. Yes.

Q. Has it always been that way? A. Ever since I've been there.

Q. Have you ever had an office in the union? A. No.

Q. While she was working there did you ever, for [412] example, eat lunch with Catherine King or sit around the table with her in the cafeteria? A. No, not as I recall.

Q. Not lately? Not at any time? A. Not as I recall. She ate in the lunch room where we did, but I never ate with her.

Q. I see. Did you ever have any problem with her or anything like that? A. No.

Mr. Jenkins: I think that is all I have of this witness.

CROSS EXAMINATION

Q. (By Mr. Gravitt) You have never held any office in the union, have you? A. No.

Q. You actually don't know when a chair lady is permitted to leave the floor and discuss grievances with the company? You've never been informed of that? A. No.

Q. And when you referred to a conversation here between Cochran and Mr. Gerlach and Cochran and Gerlach, Jr., you recall that? A. Yes.

Q. And those conversations that you referred to, you [413] didn't hear all of the conversations, did you? A. I heard what her and Junior said in the lunch room.

Q. You didn't hear everything that was said between the parties, is that right? A. I didn't hear everything that was said between Martha and Mr. Gerlach when she was in his office. I did not hear everything that was said there.

Q. But you did or did not hear everything that was said between Gerlach, Jr.— A. Yes.

Q. —and Martha? A. Yes. I heard what was said in the lunch room.

Q. You heard them talking about grievances, I suppose? A. Well, she come from back that way. I don't know what she was doing back there.

Q. What do you mean "back that way"? A. Back from Junior's office.

Q. Where she had taken some grievances in? A. I don't know what she was doing back there.

Q. You didn't hear any discussions about grievances between Cochran— A. Yes, I heard.

Q. —and Junior? A. I heard it here.

Q. No. I mean down at the plant. A. No.

[414] Q. When it happened. A. No.

Q. Before Cochran and Mulford left the employment of the company do you know of any other chair lady that was fired? A. Wasn't none fire that I know of.

Q. You don't know of any? A. Virginia Holland resigned.

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Mildred Grimes

was called as a witness by and on behalf of the Respondent and, after being first duly sworn, was examined and testified as follows:

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Trial Examiner: Thank you.

DIRECT EXAMINATION

Q. (By Mr. Jenkins) Mrs. Grimes, how long have you worked for the Quality Manufacturing Company? A. About ten years.

Q. What kind of work do you do for them? A. Pressing.

[423] Q. Do you know Catherine King ? A. Yes, I do.

Q. Prior to the time that she stopped working for the company last October was she a friend of yours? A. Yes, sir.

Q. You saw her at the plant? A. Yes.

Q. Did you eat lunch too with her? A. No, I didn't eat lunch with her.

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[425] Q. (By Mr. Jenkins) Now, Mrs. Grimes, do you remember an incident with Mrs. King in the month of October, 1969, over a radio? A. Yes.

Q. Can you fix the time and place of the incident roughly? A. Well, I don't remember the date.

Q. All right. But do you remember, how do you associate it with the time when Mrs. King eventually left the company? A. Well, she brought in a radio and she—

Q. I mean was it before this, after this or— A. Before she—

Q. That was before? A. Before.

Q. Can you give any approximation as to how long before in terms of days or weeks or something like that? A. About two, three weeks maybe.

Q. All right. Now, go ahead and tell us what happened. A. Well, she brought in a radio and played it. And Mrs. Gerlach asked her to turn it off.

[426] Q. Yes. A. Well, she did.

Q. Yes. A. And then we went downstairs for our break.

Q. Yes. A. That was the two o'clock break.

Q. Yes. A. And she said when she was down there that she would blast it when she went back up.

Q. Yes. A. And she did.

Q. On blasting it— A. The radio.

Q. All right. A. And Mrs. Gerlach went over to her then. And I see Catherine jump up.

Q. Yes. A. But I don't know what was said or anything. I was too far away from them.

Q. Yes. A. And then Catherine left the floor, her and Mrs. Gerlach.

Q. I see. Did anyone go with her? A. No. Mrs.—Delila, I believe.

Q. Are you sure? A. No. I'm not sure. I'm not for sure on that.

Q. All right. Now, were you present the afternoon that [427] there has been testimony about in this case of October the 10th, on a Friday when there was a disturbance, waiving of hands and that business? Were you present at that time? Or did you see any of that? A. Martha Cochran?

Q. No. A. The time—

Q. Catherine King. Did you see any of that? A. No.

Q. Now, were you present later on on a date that has been identified as October the 16th, Thursday, involving conversations between Mrs. Cochran and Mr. Gerlach, Jr. and Mr. Gerlach, Sr.? A. Yes.

Q. Where did this take place? A. In the lunch room.

Q. Tell the Examiner what you remember happened on that occasion? A. Well, Martha had come back—

Trial Examiner: Let me see if I can cut it short.

You remember when Mrs. Hatfield was on the stand? Did you hear her?

The Witness: Yes.

Trial Examiner: Was it about the same or different?

The Witness: Yes, it was. It was about the same.

[428] Trial Examiner: Now, if there is anything else you want to add you may add it.

The Witness: No.

Trial Examiner: But you don't have to repeat what Mrs. Hatfield said.

The Witness: No. It was just about the same thing Mrs. Hatfield said.

Trial Examiner: All right.

Q. (By Mr. Jenkins) Have you been an officer of the union or in any official position? A. In this union?

Q. Yes. A. No.

Q. I see. Have you ever had any trouble yourself with Mrs. King? A. No.

Q. Are you aware of any rule about when and under what circumstances you can leave the work area during working time? A. Yes, I am.

Q. What is the rule? A. Well, the rule is that you are not allowed to leave the floor unless you have permission.

Mr. Jenkins: I have no further questions.

CROSS-EXAMINATION

[429] By Mr. Gravitt:

Q. This rule that you said you were not allowed to leave the floor, have you seen that posted in various places in the plant? A. No. It's not posted.

Q. It's just a general understanding? A. It's just a rule.

Q. None of the bosses have ever told you that was the rule, have they? A. No.

Mr. Gravitt: I see. That's all.

Mr. Jenkins: Are any of the rules posted?

The Witness: No.

Mr. Rubenstein: Wait a minute. Wait a minute.

Mr. Jenkins: Oh, excuse me. I'm sorry.

CROSS-EXAMINATION

By Mr. Rubenstein:

Q. As a matter of fact, there are certain rules that are posted, are there not? For example, the rule about clocking in is posted? A. Why, I guess so, but I couldn't swear to it.

Trial Examiner: I'm not interested in a guess.

The Witness: I don't know.

By Mr. Rubenstein:

Q. When you clock in there is something above the [430] clock, isn't there? And doesn't it say that you cannot clock somebody else's card? A. Oh, yes.

Q. How long have you been there, Miss Grimes? A. How many years?

Q. Yes. A. Ten years. Well, off and on. Because I was off for, of course having children.

Q. No, you stated on this question today of playing the radio, this happened in the morning, is that correct? A. She turned it on in the morning and then—

Q. All right. A. And Mrs. Gerlach came over and said something to her about it. I believe it was in the morning. I'm not sure.

Q. Well, I believe you testified then that during lunch— A. No.

Q. —Catherine King came down and said— A. Two o'clock. Two o'clock break.

Q. So that this happened before two o'clock? A. Yes.

Q. And then at the two o'clock break Catherine said she was just going to turn it on ? A. Right.

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[431] By Mr. Rubenstein:

Q. And then later on that afternoon when the radio was playing again Mrs. Gerlach went over and said something to her? A. That's right.

Q. You do not, of course, know what it was that she said? A. No. Because I was too far away from them.

Q. Right. And then at that point you testified that Mrs. Gerlach then accompanied Catherine downstairs? A. Yes, I believe so. But I'm not sure on that. I don't remember. I think that Mrs. Gerlach went downstairs with Catherine.

Q. And you do not recall whether or not anybody else accompanied them downstairs? Delila? A. No. I'm not— I'm not sure.

Q. She might have? A. She might have. I'm not sure.

Q. Or she might not have? A. She might not have.

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[464] **Lawrence R. Gerlach, Sr.**

was called as a witness by and on behalf of the Respondent and, after being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

[465] By Mr. Jenkins:

Q. Mr. Gerlach, are you the president and one of the stock holders of the Quality Manufacturing Company? A. I am.

Q. Are you acquainted with Catherine King? A. Very much so.

Q. Back in October of 1969 did you have any recollection of any incident occurring with respect to Catherine King coming to your office? A. Yeah. I remember one instance. I think it was around October the 10th.

Q. How long had you known Catherine King? A. I—

Q. Just answer the question. A. I've known her ever since she was fourteen years old. You can figure it out.

Q. Even before she went to work for you? A. Oh, yes. Before she was old enough to go to work.

Q. I see. Had you had, prior to October of 1969 had she ever visited your office alone? A. She used to make it a practice to visit my office any place from one, two and sometimes three times a day.

Q. Had you ever had occasion to call her to your office by herself? A. I have talked with her different times. Because she always confided in me. And if something came up [466] that I thought she ought to know I would call her.

Q. And where would these conversations take place when you would call her? A. Most generally right in my office.

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By Mr. Jenkins:

Q. Now, on October the 10th, 1969, which has been identified here as a Friday, do you have any recollection of any contact that you had with Catherine King on that day? A. Yes. I remember in the afternoon on October the 10th my wife and her and Mulford came downstairs.

Q. Yes. A. And my wife told me that she had jumped up from her chair and throwed her hands up and created quite an excitement upstairs which stopped a lot of operators from working.

Q. I see. [467] A. And at that she went back upstairs. She left those two down here. And Mulford was with her. And I said, "Now, Mrs. Mulford", I said, "why did you come downstairs because you know it's agin' the rules to come down without permission?" And she said, "Well, I come down with Catherine." And I said, "Well, you'd better go back and take your job." She said, "I'm going to stay with her."

Q. Did you say anything to Mrs. King? A. I told her I'd have to talk to her for a couple of minutes.

Q. I see. A. I did this purposely to show her I wasn't going to fire her.

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[469] By Mr. Jenkins:

Q. Now, Mr. Gerlach, you testified you told Mrs. Mulford, I believe it was, to go back to her work shop and then you told about a conversation with Mrs. King and then what happened after that? Did they stay or did they leave or what? A. Well, I asked Mrs. King into the office.

Q. Yes. A. And I thought it was too personal for—

Q. Now, don't say what you thought. Because the Examiner is— A. Okay.

Q. I just want— [470] And she said, "I'm not going in unless Mulford goes with me."

Q. All right. A. And at that I was stunned, to tell the truth about it.

Q. All right. A. Because I'd never had this situation before. And so I said to them, I said, "Well, now", I stood there and thought awhile and directly I said, "Well, just go back upstairs. I'll have to think this over."

Q. You never had this come up before? A. Never did have it.

Q. In the whole history? A. In forty-six years.

Q. All right. You told them to go on back upstairs and go to work, is that right? A. That's right.

Q. Okay. Fine. This was on Friday, right? A. That was on a Friday.

Q. Now, pertaining to this general conversation what happened next? Did anything happen over the week end? A. Well, I talked this over. And I thought we'd never had—

Q. Don't tell what you thought. Just tell what you did. A. Well, I told my wife to call Mulford and tell her I was suspending her for two days.

[471] Q. Yes. All right. A. And that's all that I did.

Q. And were you present when any phone conversation was made or did you— A. No.

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[472] Q. Now, on Monday, October the 13th, did you have any contact with Mrs. King and anybody else on that day? A. When I came to work that morning Mrs. King and this other girl, Catherine Cochran— Can I look at her name?

Trial Examiner: Go ahead.

The Witness: And Cochran. Martha Cochran was sitting on the outside entrance of my office.

Mr. Jenkins: Okay.

Trial Examiner: Is this the next day?
The Witness: This is on Monday.
Mr. Jenkins: This is on Monday, the 13th of October.
Trial Examiner: On the next work day?
Mr. Jenkins: Yes.

By Mr. Jenkins:

[473] Q. All right. They were sitting outside of your office when you came to work on Monday, is that right? A. That's right.

Q. On the 13th of October? A. That's right.

Q. What happened then? A. Well, I went in the office and came back out with the cards. And I said to Mulford, or to Cochran, I said, "What are you doing down here and not back up on your job?" I said, "The bell's going to ring in a little bit." And she said, "I'm going to say with Catherine." So—

Q. Just a minute, Mr. Gerlach. You're not reading any notes? A. No. I've just got their names there.

Q. All right. Put those notes away. Give it to the Examiner or something.

Trial Examiner: I don't want it.

The Witness: I'll lay it right here where you can see it because I've got to find those names.

Mr. Rubenstein: I have no objection if he has got something to remind him of the names.

Trial Examiner: I haven't ruled that it was objectionable.

Mr. Rubenstein: It's perfectly all right.

By Mr. Jenkins:

[474] Q. Now, you said that you asked Mrs. Cochran what she was doing there. And tell me what happened. Then what happened after this? A. There wasn't nothing. She—I offered her card to go to work on, the time card. She wouldn't— She refused it. And of course Catherine, I told her I'd have to talk to her a couple of minutes before she could go upstairs.

Q. Was this the first time Mrs. Cochran had been involved? A. That's right. And I couldn't figure out why she was there.

Q. Well, did you have her time card down there? A. We did whenever, whenever they was out of the office or when they was out we had the time cards.

Q. I see. All right. And you told— A. I told— Let me correct that. Her time card, I think, was still upstairs. I'll take that back.

Q. All right. A. Because I said, "Why aren't you upstairs to work?" I'll take that back. I'm sorry about that.

Q. Now, did Mrs. Cochran make any reply to your instructions to her? A. Said she was going to stay with Catherine.

Q. All right. A. Go down there and stay with her.

Q. All right. [475] A. That's all she said.

Q. Did you make any reply back to her about that or not? A. No. After she refused her card I never said anything; nothing more.

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[476] By Mr. Jenkins:

Q. Mr. Gerlach, did you have any conversation on this occasion with Mrs. King? A. Yeah. I asked her to come into the office. And she said she couldn't come in unless she brought Cochran in with her.

Q. Now, did you have any other conversations with either of these ladies that day that you remember on, this is Monday? A. I don't remember talking any further to them. The thing that I remember happened later on, I had an appointment early to the hospital for my examination. And—

Q. Is this on Monday now? A. That was on Monday.

Q. All right. A. And when I went out to the car I forgot my card for the hospital. And when I came back in to get it, when I started back out this Catherine King said to me hog. And of course I never said nothing back to her or anything. I just walked on.

Q. Now, what happened, if anything, on Tuesday, which would be October the 14th? A. Well, Tuesday the same thing. Both of them came in. Now, let me tell you something further.

Q. No. I want you still to tell me what happened now [477] very specifically. A. Well, I didn't clear that day. They stayed all day with us.

Q. All right.

Trial Examiner: Who is they?

The Witness: Catherine King and Cochran stayed in the lunch room all day and interfered with us all day long.

By Mr. Jenkins:

Q. Now, getting to Tuesday, the 14th— A. Yes, sir.

Q. Did you have any contact with Catherine King that day? A. They came in.

Q. Now, who is "they"? A. To the office again. Same way.

Q. Who? A. Catherine King and Mulford—or Catherine King and Cochran.

Q. Cochran? A. Yes.

Q. All right. They came into your office? A. They come into the outside, in the hall there where the chairs is. The waiting room, in other words.

Q. What time of the day was this? A. They came before work.

Q. All right. Was there any conversation between you [478] and Cochran— A. Nothing more—

Q. —between you and Cochran and King? A. Nothing more than we had their cards that morning, both of them.

Q. All right. A. And I offered it to Cochran and she refused it. Said she was going to stay down there with King.

Q. All right. A. And King, I asked her if she was ready to talk a couple of minutes with me. And she refused without Cochran.

Q. All right. Did anything else happen at that time that you recall? A. No. Shortly after that they went home.

Q. All right. This was Tuesday now, the 14th of October, is that right? A. That's right.

Q. All right. Now, let's go to Wednesday, the 15th of October. Did anything happen on this day? A. There was three sitting there that morning.

Q. All right. And those three names were? A. King, Cochran, and Mulford.

Q. All right. A. I brought their cards out.

Q. All right. [479] A. And offered it to them. And Mulford took her card and worked that day.

Q. She went to work? A. She went to work on Wednesday.

Q. Okay. And did you have any conversation with Mulford that you remember? A. Nothing more than I spoke to her. I spoke to the girls when I came in.

Q. All right. Did you have any conversations with Mrs. Cochran or Mrs. King on this Wednesday? A. I asked Miss Cochran to go to work.

Q. Yes. A. And she refused again.

A. All right. And did you have any conversations with Mrs. King? A. Yes. I asked her to talk, if she was ready to talk. And she said that she wasn't going to talk unless Cochran come in with her.

Q. And was that the extent of the conversation? Do you remember any other thing? A. As far as I know that was all of it.

Q. This is on Wednesday. All right. Then going to Thursday, the 16th of October— A. Yes.

Q. The 16th of October. What, if anything happened on [480] that day? A. Well, the only thing that day, the three were there and I offered their cards to them and Cochran took hers.

Q. I see. She went to work? A. She went to work that morning.

Q. All right. Now, what happened with respect to King and Mulford? A. Well, King said she— I asked Mulford to go to work. It was about time for the bell. And she said that she was going to stay there with King.

[267] Q. Was there any conversation with Mrs. King that day? A. Any— Nothing more than I just asked her to come in the office for a couple of minutes.

Q. Did she reply? A. She said she wasn't going to come in without somebody else with her.

Q. Did you make any statement to them then? A. Yes. That was the 16th, wasn't it?

Q. Yes. A. Yes. That was the last day they was in.

Q. Yes. A. Well, I said to them this, these two downstairs—

Q. These two are Mulford and King, right? A. Mulford and King was downstairs. And I said, "Now, listen, girls, there has been enough funny business for this past [481] week. You made up your minds now. You either go to work or else you'll have to take—if you go out that door I'll consider you have abandoned your job." And they went out.

Q. Now, did they make any reply to that before they went out? A. They didn't say nothing anywhere I could hear it, but they mumbled something after they got in the next entrance.

Q. But you couldn't tell what it was? A. I couldn't tell you what they said.

Q. And they left the plant? A. That's right.

Q. I see. Now, have you talked to Mrs. King or Mrs. Mulford since that time? A. No. They never come around.

Q. Now, I believe you testified that on that morning, which would be the 16th, that Mrs. Cochran, she went to work? A. She went to work. Right.

Q. Now, did you have any other conversation with her later that day? A. Yeah. I don't know just what all took place.

Q. Well, I just want to know what contact you had. A. Well, she kind of just come a flying in my office at noon hour.

Q. All right. What did she say? A. And she said that my son had fired her.

[482] Q. Yes. A. And she wanted either me to fire her or a layoff slip or something.

Q. Yes. A. And I said, "We're not giving out any. And you're not fired." And then she got mad and flew up and said that I didn't have enough sense to run a business or any of the family. That's what she said.

Q. Yes. Did you make any— A. And so I— You want to know what I said to her?

Q. Yes. A. I said to her, "Are you the ones that run the business across from the old factory, you and your husband?" And she said, "Yes." I said, "Well, then why aren't you still in business." And that made her mad. And she went out by the door, office door. And she slammed it. I thought it was going to fall through, the partition and all. And she said, on the outside there, I don't know what— These girls know more about what she said out there.

Q. I just want to know what you know. I don't want you talking about these girls. A. She said plenty. I'll say that.

Q. Did you hear any of it? A. I heard it, but I was kind of mad myself. Whenever somebody slams the door like that it gets my temper riled up.

[483] Q. Are you able to tell now what she said after she went out the door and slammed it or do you know of your own knowledge? A. Just offhand I'll let the other's stand. Because it was something similar to it. I can say that.

Q. All right. Now, did Mrs. Cochran stay at the plant or leave or do you know? A. She left. She left after she got a little bit over her mad spell.

Q. All right. Did you have any further conversations with her? A. No, never had any.

You didn't talk to her any more? A. No.

Q. Did you hear her say anything to anybody else? A. The only thing I heard was the office girl said she called.

Q. No. No. I don't want you to tell what the office girl told you. I want you to tell what you heard Mrs. Cochran say, if anything. A. I never heard her say anything because she was gone.

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By Mr. Jenkins:

Q. Mr. Gerlach, you have told us about these conversations which you had with Mrs. King and Cochran and Mulford between October the 10th and the 16th, 1969. Since the conversation you reported on the 16th, Thursday, do you recall, have you ever talked to either of the three of them since that time? A. No.

Q. Now, there has been testimony in this case relative to a telephone conversation between Katherin Stephens, who works in the office, and Mrs. Cochran on the afternoon of the 16th, on the telephone. Did you give any instructions with respect to that conversation to Mrs. Stephens? A. No, sir.

Q. You didn't tell her what to say? You didn't tell her what to say? A. No. I didn't know about it.

Q. Did you ever tell anyone, or make the statement to anyone that King or Mulford or Cochran had been fired by the company? A. No. Never. Because I never fired them.

Q. I see. Now, there has been some testimony in this case by Mr. Goolst that on or about January 21, 1970, he says he had a conversation with you and you said something to the effect [485] that you would not take the three girls back. Did you ever have such a conversation? A. I never. I would always take them back from the first time they refused to go upstairs if they'd of went.

Q. Did you ever tell Mr. Goolst that you would not take them back? A. Never.

Q. Did you ever tell Mrs. Wiley or any of the other union representatives? A. No, I never told them.

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Cross-Examination

By Mr. Gravitt:

Q. Mr. Gerlach, on October the 10th, I believe you testified that you told King that she could go back to work and she went back to work, is that right? A. Right. Right.

Q. And then Mulford was down there, too. And then you told Mulford to go back to work? A. I told both of them at the same time.

Q. You told both of them at the same time? A. Right. [486] Q. And both of them went back to work? A. Uh-huh.

Q. And you told King that you wanted to talk to her alone and she refused without Mulford going in the office with her, is that right, sir? A. That's right.

Q. Now, as I understand it after October the 10th, say October the 13th, that would be the Monday after that— A. Uh-huh.

Q. King came back again. And this time Mulford with her? A. Cochran with her.

Q. Well, Cochran with her. All right, sir. And at this time you don't permit King to go to work. Now, isn't that right, sir? A. No. No. Now, don't put words in my mouth.

Q. No, sir. No, sir. I don't want to. You keep me straight now. Did you tell King on this occasion that just go on upstairs— A. You heard my testimony a few minutes ago. You get it word for word that I give a little while ago.

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By Mr. Gravitt:

Q. Now, on October the 13th did you tell King that she could go on upstairs and go to work? A. The 13th? No. I said I had to talk to her a couple of minutes first.

Q. Yes. A. Then she could.

Q. Yes. A. Because I had to tell her.

Q. And at no time after October the 13th have you told King that she could go upstairs and go to work? A. Every morning. Every morning they was told. Every morning they come in.

Q. Now, after October the 13th did you tell King she could go upstairs and go to work? [488] A. After the 13th?

Q. Yes. A. Yes. The 14th, 15th, 16th.

Q. Well, what did you tell her then? Just tell me. A. I told her I had to talk to her a couple of minutes. Now, that— Is there anything wrong with that?

Q. And then she could go to work? A. Yeah. That's right. She'd always been coming in. She'd always been coming into my office any time she wanted to.

Q. She couldn't go to work, or you wouldn't let her go to work until she talked to you a few minutes, right? A. I had, I had some personal—

Trial Examiner: Please answer the question. She couldn't go to work unless you talked to her first. I'm not saying that's true. I am asking you if it's true.

The Witness: That's right. That's right.

Trial Examiner: All right. Go on to your next question.

By Mr. Gravitt:

Q. And then was it October the 13th that Cochran and King sat outside your office or near or about all day? A. They stayed in the lunch room.

Q. And you still never talked to them any time, did you? A. I talked to them that morning and offered them their jobs.

[489] Q. Yes. A. What else could I do?

Q. You never scheduled any meetings with King and Cochran or King and Mulford at any time to discuss this matter, did you? A. There wasn't anything to discuss. She just said she wasn't going to go to work unless the two of them come into my office and talked to me. That's what it was all about. I couldn't change the rules of the company to have two coming in whenever we'd never had.

Mr. Gravitt: No more questions.

Mr. Rubenstein: I have a few.

CROSS-EXAMINATION

By Mr. Rubenstein:

Q. On the 14th— I'm sorry. Strike that. On October the 14th, and we are now talking about the Tuesday morning, this was Mrs. King and Mrs. Cochran? A. Right.

Q. That were together? A. Right.

Q. Now, isn't it true that at that time you said to Mrs. Cochran that you are suspended for two days for leaving your station? A. No, no.

Q. You never did say that? A. That's not true.

[490] Q. That's not true? A. No, sir. I never have.

Q. Now, you have, however— A. She wasn't suspended. She wasn't suspended.

Q. But you had pulled her card by that time? A. By her not attending her job the day before.

Q. By Tuesday? A. Yes. Her card was pulled.

Q. Now, her job was not pulled on Monday, was it? A. No, it wasn't pulled on Monday.

Q. It was pulled on Tuesday? A. It was pulled Monday so she couldn't go to work Tuesday unless she talked to me.

Q. Now, we're talking about Mrs. Cochran now? A. Yeah.

Q. Now Mrs. Cochran had to talk to you, too, is that it, before she— A. Well, if anybody wouldn't take their job what would you do? You expect to just let them go up and go to work the next day without asking them why they wouldn't take their job?

Q. Now, what I am trying to find out is you did not permit Mrs. Cochran to go to work on the 14th, did you? A. Yes. Her card was offered to her.

Q. Now, wait a minute. You just said— A. Her card was offered on the 14th, the 13th. She was in there. And they [491] refused on the 13th, both of them. And they stayed in the factory all the day on the 13th.

Q. And then the night of the 13th Mrs. Cochran's card was pulled? A. It was pulled because she didn't go to work on Monday. She— The rack is cleared on Monday afternoon because if somebody stays out the card comes to the office. And they pick their cards up in the office and take them up the next day.

Q. Now, of course Mrs. King's card had been pulled Friday night? A. Well, I don't know. I would say it was pulled sometime Friday.

Q. Yes. A. Friday evening or sometime.

Q. And you are saying that you did not tell Mrs. Cochran that she was suspended for two days? A. No, sir.

Q. For leaving her station? A. No, sir. No, sir. Don't let her tell you that.

Q. Well, she told all of us that.

Trial Examiner: The answer is no?

The Witness: No.

By Mr. Rubenstein:

Q. She told all of us that. And then on the next day—

Trial Examiner: Is this the 15th now?

[492] Mr. Rubenstein: I am now talking about the 15th.

By Mr. Rubenstein:

Q. This is the day you said Mrs. Mulford was there as well as— A. All three of them.

Q. All three of them? A. All three of them.

Q. And Mrs. Mulford had just come off her two days suspension, is that correct? A. Right. Right.

Q. That she testified to? A. Right.

Q. That you instructed your wife— A. Right. Right.

Q. Okay. And then you offered her her card? A. I offered her— I brought all three of the cards out and offered the two that could go upstairs and told Catherine I still wanted to talk to her. And Mulford took her card.

Q. Mulford took her card? A. Took her card and worked that day.

Q. We are talking about the 15th. Mulford took her card? A. Yeah. On the 15th Mulford took her card and worked that day.

Q. And didn't Mulford also ask you on that day that as to what is the story with Mrs. Cochran and you said she still has [493] another day for suspension? A. Now, there wasn't no asking done.

Q. There was no asking done? A. That's right. All that was said, I had the cards and brought them out there.

And I give them to, out where they could get them. And Mulford took hers when I offered hers.

Q. You offered all three of them? A. I offered all but Catherine's. And I still had hers in my hands.

Q. I see. A. Because I wanted her in the office to talk some certain things I felt was interesting to her as well as to myself.

Q. Okay. And you offered Mrs. Mulford her card and without any words she took her card and went upstairs? A. That's right. You're right.

Q. Never asked what the other two girls were doing there? A. Never. She just walked right on.

Q. Just walked right on? A. That's right.

Q. And then you offered Mrs. Cochran her card? And she refused and said she had to stay with Catherine King? A. Uh-huh. That's right.

Q. And of course it was known that Catherine was not getting her card until she talked with you? A. That's right. I had her card. I said, "Here. I want [494] to talk to you a few minutes before you go upstairs."

Q. You stated, I believe, that there was a company rule about two people couldn't be in your office? A. No. No.

• • • • • • • • • •

By Mr. Rubenstein:

Q. So you deny then that Mrs. Cochran was suspended on the 14th and 15th? A. I told you what took place. Each one.

Q. Now, the 16th, the morning of the 16th or the afternoon of the 16th—I'm sorry. The morning of the 16th it was Mrs. Mulford who was back with Mrs. King? A. They were all three there.

Q. All three there? A. Yeah.

Q. Then what happened that morning? A. I offered the cards. And who takes their card? Cochran took her card. Mulford said she was going to stay with Catherine King.

Q. And so Mrs. Cochran went upstairs and she went to work? A. She went to work and worked till noon.

[495] Q. And worked until noon. And were you aware that her husband—that your son—I'm sorry. Are you aware that your son then that afternoon pulled her card and would not let her work the rest of that afternoon? A. I think they had an argument. There is a reason for it.

Q. Well, that's not what I asked you. I asked if you were aware of it? A. I wasn't aware of it until she come up and said he fired her. That's when I knew what had taken place.

Q. All right. Now, you learned then what had taken place from Mrs. Cochran when she said you son fired her? A. She said she's fired. She wanted a slip with something on it.

Q. And did you know at that point whether your son had fired her or had not fired her? A. In the meantime he came to the office and told me what took place.

Q. What did he tell you took place? A. Well, that she just simply pushed him, pushed these papers she had in his face when he had a time schedule to meet and he had told her very politely that if she would just wait until Monday that he would gladly take up these grievances and so on.

Q. All right. [496] A. But the question was was she the one to bring those grievances. We didn't know that. We had never been officially notified.

Q. Now, you claim that the company had not been officially notified— A. Right.

Q. —that— A. Right.

Q. —that Mrs. Cochran was an assistant steward? A. That's right.

Q. Had you ever been notified that Virginia Holland was the steward? A. Yeah. This came up.

Q. How were you notified? A. They bruoght her in to my son and talked it over.

Q. And weren't you aware that at the very same meeting that Mrs. Holland was elected as steward that Mrs. Cochran

was elected to be assistant steward? A. I heard one of the witnesses say this morning that she wasn't. And that's all I know about it.

Mr. Jenkins: That's right.

By Mr. Rubenstein:

Q. You are saying it didn't happen? A. I heard a witness say this morning that she wasn't, that she wasn't elected.

[497] Q. What witness said that this morning?

Trial Examiner: Well, we will not go into that.

The Witness: I don't know. I'm not going to mention it. But I heard it and you heard it, too.

By Mr. Rubenstein:

Q. Now, that was the witness who said she never attended any meetings and so she wasn't there? A. No, that wasn't either. That was one that attended every one.

Q. So—

Trial Examiner: Let's not comment on any witness' testimony.

By Mr. Rubenstein:

Q. So you say that you are not aware of the fact that Mrs. Cochran had anything to do with grievances? A. We knew she was secretary and that's all we knew.

• • • • • • • • • •

Q. Right. And how about Mrs. Mulford? Did you know what she was? A. She'd never been presented to the company either.

Q. Had never been presented to the company? A. No. No.

Q. What do you mean by "presented"? Do you mean— A. Just the way that Virginia should have been presented. We thought if there was any changes they'd of brought them in the same way.

[498] Q. That's not really my question. Did you know that she was the steward? A. We didn't,

Q. Or the assistant? A. We had never been officially notified.

Q. That again was not my question. Did you know?

Trial Examiner: Did you somehow know?

The Witness: Just the grapevine is all.

Trial Examiner: All right.

By Mr. Rubenstein:

Q. Then you knew that when Mrs. Mulford was there with Mrs. King on the morning, on the afternoon of the 10th and the morning of the 13th and on the morning of the 16th that she was the steward? A. No, I didn't know it.

Q. You didn't know it? A. No.

Q. And you just thought that she was some busy-body? A. I just figured she'd come down with her. Because I knew Virginia had resigned. I didn't know it.

Q. And Virginia, of course, had resigned about two months before this? A. Now, no, I don't think so.

Q. Do you know when she resigned? A. No.

[499] Q. Well, how do you know— A. It hadn't been very long. It hadn't seemed very long.

Q. I see. Well, suppose that—Strike that. So you are saying that although you knew through the grapevine that Mrs. Mulford was the steward you didn't recognize her as such when she came into the office there on the 10th? A. She didn't say she was such. She never said she was such.

Q. And don't you recall Mrs. Wiley bringing Mrs. Mulford in after Mrs. Holland resigned— A. Nah.

Q. —and tell you and all of you that she was the new steward? A. No. Don't feed us this. Because it wasn't done.

Q. It wasn't done? A. No.

Q. All right, sir. And you don't recall the meeting that

took place in your cafeteria in the lunch room at which Mrs. Wiley was there and Mr. Bananno was there and Mrs. Mulford was there and that took place, and Mrs. Cochran, and then you went from that meeting into your office and they went into your office and told you that Mrs. Mulford had replaced— A. No. You're wrong.

[500] Q. We're wrong? Okay. Didn't happen? A. Didn't happen that way.

Q. But the whole thing never happened? A. Part of it happened.

Q. Never— A. Part of it happened and part of it didn't.

Q. Well, which part happened? A. What?

Q. Which part happened? A. We settled a grievance, the whole bunch of us together. But one had just as much say as the other. There wasn't no individual.

Q. Now, who settled the grievance? A. It wasn't even a written grievance to tell you the truth about it.

Q. I understand. But who settled it? Who was there at this grievance session? A. That guy right there (Pointing) was there. And he was the one that settled it. He was the one that settled it.

Q. Mr. Goolst was there, wasn't he? A. That's right.

Q. And you knew who Mr. Goolst was? A. That's right. But these others was committees and so on. And they wasn't, they wasn't—You ask him. He'll tell you. There wasn't any of that there done.

[501] Q. As a matter of fact, Mr. Goolst wasn't even present? A. You guys don't understand one another for some reason or the other.

Q. Now, suppose I tell you that the man you are talking about, Mr. Goolst, wasn't present?

Mr. Jenkins: I don't want him telling him anything.

The Witness: No. I take it back. It wasn't him. It wasn't him.

Trial Examiner: Wait a minute. Wait a minute. Keep quiet, please. I have to make a ruling.

The Witness: Okay.

Trial Examiner: I'll sustain Mr. Jenkins' objection.

Mr. Rubenstein: All right.

Trial Examiner: I don't want you to get into any arguments with him. Please wait until the question is finished. Give your lawyer a chance to object to it if he wants to.

The Witness: Bananza was the other guy.

Mr. Jenkins: Mr. Gerlach, the Trial Examiner is giving you some instructions. Would you please look at him and listen to what he has to say?

The Witness: Okay.

Trial Examiner: You wait until the question is finished and then wait a little while longer in case Mr. Jenkins has an objection.

The Witness: Okay.

[502] Trial Examiner: Then just answer the question and don't make any speeches, please.

The Witness: Okay.

Trial Examiner: I'm not criticizing you. I'm just making a ruling.

By Mr. Rubenstein:

Q. Now, tell us, at this grievance meeting who was present to the best of your recollection? A. Just to tell the truth about it I, since you just mentioned it, I remember a fellow. The name sounded like Bandando. He was there.

Q. Mr. Bananno. A. And then some of the girls in the factory. But just who all it was I couldn't tell you everyone probably.

Q. Well, was— A. There was one of them there I know.

Q. What? A. I think Alice—

Q. Excuse me. A. I think Alice was there.

Q. Right. And Delila was there? A. I couldn't tell you about whether she was there or not.

Q. And Martha was there? A. I couldn't tell you whether she was there or not.

Q. And as a matter of fact those were the three girls that were there? That was Mr. Bananno and Mrs. Wiley— [503] A. I'll say Alice was there. Because she done some talking. And I remember her.

Q. And that meeting was around the end of August or the first of September, wasn't it? A. Couldn't tell you just when.

Q. You don't know? A. Just don't.

Q. Well, do you recall when Mrs. Holland left the steward job? Wasn't it after that? Mrs. Holland? A. I can't tell you.

Trial Examiner: It doesn't matter. This is on the question of knowledge.

Mr. Rubenstein: Personal knowledge.

Trial Examiner: We are not going into what was discussed. You see, I know why you're bringing it out. And that's why I say I don't care when it occurred. And I'm not inferring that he has knowledge. I'm just saying that it doesn't matter.

By Mr. Rubenstein:

Q. Now, at this meeting did not Delila Mulford ask you for the seniority list? Do you recall that? A. She asked me one time for that. But whether it was that meeting or not I couldn't tell you.

Q. And when she asked you for the seniority list didn't she tell you that she was the steward and that that's why she [504] was now asking you for the seniority list? A. No. No. Not that I know of.

Q. You just thought— A. Not that I remember.

Q. Would any employee just come up and ask you for a seniority list? A. They will in our place. It's open.

Q. I see. A. It's not closed.

• • • • • • • • • •

Joel Goolst

was recalled as a witness by and on behalf of the Charging Party and, after being reminded he was under oath, was examined and testified further as follows:

• • • • • • • • • • •

DIRECT EXAMINATION

By Mr. Rubenstein:

Q. Mr. Goolst, in connection with your official position in connection with the International Ladies' Garment Workers did you attend the meeting in April of the local at which elections took place, the steward elections? A. Yes, sir.

• • • • • • • • • • •

By Mr. Rubenstein:

Q. Thereafter did you make it known, the results of that [506] election, to anybody, to either Mrs. Gerlach, Mrs. Gerlach or Gerlach, Jr.? A. Gerlach, Jr.

Q. And what did you tell him? A. That Virginia Holland was elected chair lady and he will be dealing with Virginia Holland in the factory and that Martha Cochran has been appointed her assistant.

Q. And when that approximately with reference to the signing of the agreement? A. The day we brought the agreement in and brought the strikers back to work. That's when that took place. Both Mr. Gerlach, Jr. and myself, in order to bring all parties together, made a speech that day. At that time we told him who would be dealing with in the factory.

• • • • • • • • • • •

Elizabeth Wiley

was called as a witness by and on behalf of the Charging Party, was examined, and testified further as follows:

• • • • • • • • • • •

DIRECT EXAMINATION

By Mr. Rubenstein:

Q. Mrs. Wiley, in connection with your position as business agent, International Ladies' Garment Workers' Union, did you have a meeting on the company premises around the latter part of August, 1969? A. Yes, sir; we did.

[508] Q. And who was present at that meeting? A. Mr. Nick Bananno, who is the assistant manager of the upper South Department, at that time, myself, Martha Cochran, Alice Hoschar, and Delila Mulford.

Q. And— A. And Mr. and Mrs. Gerlach, Sr.

Q. Now, at that meeting was there any discussion of shop steward? A. Yes, sir; there was.

Q. Would you tell us? A. The discussion was that since Virginia Holland has resigned her position as chair lady that we informed the company, Mr. and Mrs. Gerlach, that there had been a new chair lady elected, who was Delila, and—

• • • • • • • • • • •

Q. That's Delila Mulford? A. Correct. And that Martha Cochran was still the assistant in case Delila should be out for some unkonwn reason, you know, we would still have some representation in the shop.

• • • • • • • • • • •

Charging Party's Exhibit No. 1

AGREEMENT BETWEEN
QUALITY MANUFACTURING COMPANY
Point Pleasant, W. Va.
and
UPPER SOUTH DEPARTMENT
of the
INTERNATIONAL LADIES' GARMENT WORKERS UNION
Baltimore, Maryland

[UNION LABEL]

April 15, 1969

International Ladies' Garment Workers Union

Huntington, W. Va. Phone 523-0561

• • • • • • • • • •

[1] AGREEMENT

THIS AGREEMENT made and entered into this 15th day of April, 1969, by and between QUALITY MANUFACTURING COMPANY, for its plant at Point Pleasant, West Virginia, hereinafter designated as the "Employer", and the UPPER SOUTH DEPARTMENT OF THE INTERNATIONAL LADIES' GARMENT WORKERS' UNION, said agency being an unincorporated association and hereinafter designated as the "Union", for and in behalf of itself and the employees now employed or hereinafter to be employed by the Employer.

WITNESSETH:

WHEREAS, the Employer represents that it is engaged in the making of dresses, and other women's wear, and

WHEREAS, the workers employed by the Employer have duly designated the Union as their exclusive bargaining representative for the purpose of collective bargaining with

the Employer with respect to rates of pay, wages, hours, and other conditions of employment, and

WHEREAS, the parties desire to cooperate in establishing conditions which will tend to secure a living wage, improved working conditions and fair competition insofar as labor cost is concerned, and to provide methods for a fair and peaceful adjustment of all disputes that may arise between the parties.

NOW THEREFORE, in consideration of the mutual promises [2] and obligations herein assumed and contained and other good and valuable considerations, the parties agree as follows:

ARTICLE I

Union Recognition

The bargaining unit covered by this agreement consists of all non-supervisory production workers, including packing, shipping and cutting workers employed by the Employer. It is agreed that the Union represents a majority of such workers and that it shall be the sole and exclusive bargaining representative for all workers in the bargaining unit during the entire period of this agreement. Neither the Employer nor any of its agents shall directly or indirectly discourage membership in the Union.

ARTICLE II

Union Membership

The Union agrees that it will accept into membership employees regularly hired by the Employer and that it will not force any unusual requirements for their admission to membership in the Union.

Good standing membership to the Union shall be a condition of employment. All employees after completion of their Trial Period shall automatically become union members.

ARTICLE III

Trial Period

[3] Newly hired workers shall be deemed during their first sixteen (16) weeks of employment to be engaged for a trial period. Thereafter they shall be deemed regular employees and entitled to all the benefits of regular employees under this agreement.

ARTICLE IV

Check-Off

The Employer agrees to deduct membership dues (which shall be deemed to include periodic fixed dues, initiation fees, and assessments) from the earnings of its employees as directed by the Union and transmit the same to the Union within forty-eight (48) hours after each pay period, subject to the requirements of law concerning authorization and assignment by the workers individually.

ARTICLE V

Hours - Overtime

The standard hours of employment shall be forty (40) hours per week divided equally into the first five (5) working days from Monday through Friday inclusive. All work outside the daily regular hours shall be considered overtime and shall be paid for at the rate of time and one-half Saturday work as such shall be considered overtime and shall be paid for at the rate of time and one-half unless employee is absent on her own.

ARTICLE VI

Minimum Wage Scale

Minimum hourly wage rates for employees covered by this Agreement are set forth in Schedule "A" annexed hereto.

ARTICLE VI

Minimum Wage Scale

Minimum hourly wage rates for employees covered by this Agreement are set forth in Schedule "A" annexed hereto.

[4] ARTICLE VII

Discharges and Discipline

No worker shall be discharged or otherwise disciplined without good and sufficient cause, except during his trial period. In case of any dispute regarding a discharge or disciplinary act and if the discharge or disciplinary act is found to be unjustified, the worker shall be reinstated and shall be compensated for the loss of his earnings during the period of such discharge or disciplinary act.

ARTICLE VIII

Seniority

All layoffs and rehiring shall be by seniority, by craft and by the type of operation performed, it being understood that the worker remaining on the job shall have the experience and ability to perform the work required. The Shop Chairman shall have top seniority provided there is work available which she is competent to perform.

ARTICLE IX

Chairlady, Committee

There shall be a Shop Chairlady and Committee selected by or under the auspices of the Union. The Shop Chairlady shall be compensated for time unavoidably lost during working hours in the process of adjusting grievances.

Article X

Damaged Goods

The Employer shall not charge workers for damage to material unless caused willfully.

[5]

Article XI

Assignment to Other Work

1. The Company agrees that if employees are assigned to operations which they are not familiar with that they shall be compensated for the time worked on such work.

2. It is also agreed that any worker who is switched to more than three operations in any one day shall be paid no less than their previous work average for said day's work.

3. The employee has the right to refuse to do operations other than their regular work.

Article XII

Holidays

The following holidays shall be observed and all employees who are eligible shall be paid for them regardless of whether such holidays fall on a working or non-working day of the week:

1969: Labor Day
Christmas Day
1970: Memorial Day
1971: July 4th
For a total of 4.

Employees shall be eligible for holiday pay after sixteen (16) weeks of employment.

An employee shall be ineligible for holiday pay, if while work is available, he fails to work the day before or the day after the holiday unless such absence is for justifiable cause.

[6] Holiday pay for each time an dpiece worker shall be the number of hours in the regular work day at plant minimum.

In the event any work is performed on any of the above holidays, the employees shall be paid at the rate of time and one-half, in addition to pay for the holiday.

If a holiday falls during a vacation period, employees will get an additional day with pay.

Article XIII

Right to Leave Shop—Call In Time

Workers shall not be required unreasonably to remain in the shop during the day when there is no work for them. All workers who are requested or permitted to report for work shall be supplied with at least one-half (½) day's continuous work or be paid therefor.

Article XIV

Health, Welfare, Retirement and Severance Fund

1. Effective April 15, 1969, the Employer shall pay monthly to the Union a sum of two and one-half (2½) percent of its total gross weekly payroll (before deduction for Federal or State taxes) of all employees covered by this agreement whether regular workers, employed by the Employer. April 15, 1970, an additional one-half (½) percent to be paid and again April 15, 1971 another one-half (½) percent making a total of three and one-half (3½) percent. Such payments shall be made toward the Upper South Department, ILGWU, Health, Welfare, Retire- [7] ment and Severance Fund, a trust fund established by collective agreement prior to January 1, 1946, and maintained by the Union in trust for the purpose of providing the employees with health and welfare benefits and services.

The payments made hereunder by the Employer shall not constitute or be deemed wages due to the workers.

2. The above said Funds shall continue to be maintained and administered by the Union in accordance with the by-laws or rules and regulations adopted by the Union for that purpose. The Employer shall have no legal or equitable right, title or interest in, or claim against, his or any other Employer's payments toward the Said Funds, except as may be provided by the by-laws or rules and regulations of said Fund.

Article XV

Assurance of Work—Employer Expansion

1. The Employer shall have no work performed outside of its own shop unless the workers of its inside shop are fully supplied with work, and unless such outside shop is under contract with a local union of the International Ladies' Garment Workers' Union and has complied with the terms thereof, is registered by the Employer herein with this Union and maintains the standard of wages and hours established under the agreement herein. In addition, the Employer herein shall be responsible to the Employees of such outside shop for their wages if they are not. [8] paid for the work done by them on garments of the Employer; said responsibility shall be limited to two (2) weeks' wages.

2. Should the Employer desire to expand and open additional factories, notice thereof shall be given by said Employer to the Union prior to the opening of such factories and such factories shall be operated under all the terms and conditions of this agreement. In no case, however, shall the operation of such factories result in reducing the work or the number of workers at present employed in the factories to which this agreement is now applicable.

Article XVI

Struck Work

The Employer shall not perform any work for or give any work to any concern against which a strike has been

declared by the ILGWU or any of its affiliated locals, and in no event shall it request any of its employees to perform work destined directly or indirectly for such concern. Such work shall not be deemed in the workers' regular course of employment, and the workers need not perform such work.

Article XVII

Rehiring After Lay-Off

If the Employer suspends work in whole or in part during the slow season, it shall upon resuming work give employment to the employees it has laid off before engaging any new help.

[9]

Article XVIII

Examination of Books

The Employer shall, upon request by the Union, submit the payroll books and other pertinent records for examination for the purpose of ascertaining whether the Employer has complied with the terms of this agreement.

Article XIX

Access to Shop

Representatives of the Union shall have access to the shop including the sewing floor of the Employer during business hours for the purpose of taking up complaints and for the purpose of ascertaining whether the terms of this agreement are being complied with, provided the representative makes his presence known at the Employer's office.

Article XX

Authorization

The Employer agrees that the sole persons authorized or having the power to act as agent of the Union, or to bind the Union legally with respect to matters arising out of this

agreement or arising out of the relations between the Employer and the Union, or to subject the Union to any liability whatever by reason of any act or omission are the Manager of the Union and the designated business agent servicing the shop, or such substitute or additional persons as the Union may hereafter formally designate by written notice to the Employer). The Union shall not be responsible for the acts or omissions of any [10] other persons, including members and employees of the Union.

Article XXI

Crossing Picket Line

It shall not be considered a breach of this agreement on the part of the Union or on the part of any individual employee if any employee or employees refuse to cross a picket line, recognized by the International Ladies' Garment Workers' Union, nor shall such refusal be cause for discharge or discipline.

Article XXII

No-Strike, No-Lockout Pledges

The Union agrees that it will not call, authorize or ratify a strike or stoppage during the life of this agreement, except for the Employer's failure to submit to arbitration or to comply with the decision of an arbitrator. Should an unauthorized strike or stoppage of work by Union members occur, the Union's sole obligation shall be to endeavor in good faith, within twenty-four (24) hours after receipt of written notice thereof from the Employer, to bring about the return to their work of its members who have stopped work. Upon the failure of any employees to return to work within said twenty-four (24) hours period, the Employer may at its option consider that such employees have abandoned their employment; but should the Employer reemploy such employees, it shall treat all such employees alike and shall not discriminate among them. Compliance by the

Union in good faith with this provision shall be deemed full compliance with the Union's obligation hereunder.

[11] The Employer agrees that it will not order, authorize or ratify a lockout during the life of this agreement. Should a lockout occur, the Employer's sole obligation shall be to endeavor in good faith, within twenty-four (24) hours after receipt of written notice thereof from the Union, to terminate the lockout and reemploy the employees. Upon the failure of the Employer to do so within said twenty-four (24) hour period, the Union at its option may treat the matter as a dispute to be determined under the machinery for adjustment of disputes, as provided in this agreement, or may consider that the Employer has forfeited its right under the agreement.

Article XXIII

Adjustment Machinery—Court Actions Barred

1. Any and all disputes, complaints, controversies, claims or grievances whatsoever between the Union or any employees and the Employer, which directly or indirectly arise under, out of, or in connection with or in any manner relate to this agreement of the breach thereof, or the acts, conduct or relations between the parties shall be adjusted as follows:

(a) The Shop Chairlady, or in the case of piece price disputes, the Price Committee, together with a representative of the Union, shall attempt to settle the matter with a represenative of the Employer. No adjustment shall be deemed binding on [12] the Union unless approved by an authorized representative thereof.

(b) If they shall fail satisfactorily to dispose of any such dispute, complaint, controversy, claim or grievance, or if for any reason it has not been taken up by them, or if the matter does not lend itself to the foregoing procedure, the matter shall be submitted to arbitration before an arbi-

trator agreed on by the parties. If the parties cannot agree on an arbitrator within five (5) days, then upon request of either party the American Arbitration Association shall designate the arbitrator and the arbitration shall be conducted in accordance with their rules. The award or decision of the arbitrator, in addition to granting such other relief as the arbitrator may deem proper, may contain provisions commanding or restraining acts and conduct of the parties. Any award or decision of the arbitrator shall be final and binding and shall be enforceable by appropriate proceedings in law or in equity. The taking of the oath by the arbitrator is hereby expressly waived. His fee shall be borne equally by the parties hereto.

2. It is the intention and agreement of the parties that the procedure herein established for the adjustment of disputes shall be the exclusive means for the termination of all disputes, complaints, controversies, claims or grievances whatsoever, including claims based upon any breach of this agreement. It is intended that this provision shall be interpreted as broadly and inclusively as possible. Neither party shall institute any [13] action or proceeding in a court of law or equity, state or federal, other than to compel arbitration, as provided in this agreement, or to enforce the award of an arbitrator. This provision shall be a complete defense to any action of proceeding instituted contrary to this agreement.

Article XXIV

Vacations

All employees covered by the agreement employed for a period of one (1) year as of June 1st of each year and who has worked at least 1200 hours and are on the payroll at vacation time shall receive one (1) week's vacation with pay. Vacation shall be paid at the employees average but in no event less than plant minimum. The Employer shall designate the vacation period between June 15 and August 15—Christmas week off without pay except for holiday pay.

Article XXV

Conformity to Law—Saving Clause

1. If any provision or the enforcement or performance of any provision of this agreement is or shall at any time be contrary to law, then such provision shall not be applicable or enforced or performed, except to the extent permitted by law. If at any time thereafter such provision or its enforcement or performance shall not longer conflict with the law, then it shall be deemed restored in full force and effect as if it had never been in conflict with the law.

[14] 2. If any provision of this agreement or the application of such provision to any person or circumstance shall be held invalid, the remainder of this agreement, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Article XXVI

Supervisors

Supervisors shall not perform the work of a craft covered by the agreement except in emergencies and for the purpose of instruction. At no time can this take work away from an employee covered by crafts in this agreement.

Article XXVII

Term

This agreement shall go into effect as of the 15th day of April, 1969, and shall continue in effect until the 15th day of April, 1972, and shall thereafter automatically be renewed from year to year unless either party shall notify the other party inwriting at least sixty (60) days prior to any such expiration date that it desires to change or modify the terms thereof.

In Witness Whereof, the parties have hereunto set their respective hands and seals, and caused this agreement to be

signed by their respective officers the day and year first above written.

WITNESS:

L. Gerlach, Jr.
Joel Goolst

QUALITY MANUFACTURING COMPANY
L. R. Gerlach, Sr.

UPPER SOUTH DEPARTMENT OF THE INTERNATIONAL LADIES' GARMENT WORKER'S UNION

Angela Bambace

[16] QUALITY MANUFACTURING COMPANY

SCHEDULE "A"

Minimums:

Effective April 15, 1969 — $1.65 per hour
Effective April 15, 1970 — 1.70 per hour
Effective April 15, 1971 — 1.75 per hour

Effective April 15, 1969, the percentage increase is to be increased from the present twenty-five (25) percent to thirty-three and one-third (33⅓), percent.

Federal Minimum:

The Employer agrees that in the event of an increase in the Federal Minimum that the plant minimum shall be .05 above the plant minimum.

Cutting Department Schedule:

	4-15-69	4-15-70	4-15-71
Head Cutter	$2.40	$2.55	$2.70
Assistant Cutter	1.70	1.80	1.95
Scale to be worked out for newly hired cutters.			

Spreaders, Separaters, Utility and Service Time Workers	1.70	1.75	1.80
The employer agrees that the piece rate tickets will be increased in the following amounts on the above mentioned dates to compensate the increase in the plant minimum.	.03%	.03%	.03%

Piece Rate Yield

Piece rates shall be set to yield an operator of average skill and ability no less than the plant minimum at all times. The Employer agrees that if these rates do not yield the plant minimum then they will be adjusted.

WITNESS:

L. Gerlach, Jr.

Joel Goolst

QUALITY MANUFACTURING CO.

L. R. Gerlach, Sr.

INTERNATIONAL LADIES' WORKERS GARMENT UNION

Angela Bambace

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Department .....

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SUPREME COURT OF THE UNITED STATES

No. 73-765

INTERNATIONAL LADIES' GARMENT WORKERS' UNION, UPPER SOUTH DEPARTMENT, AFL-CIO, *Petitioner*

v.

QUALITY MANUFACTURING COMPANY and NATIONAL LABOR RELATIONS BOARD

No. 73-1363

NATIONAL LABOR RELATIONS BOARD, *Petitioner*,

v.

J. WEINGARTEN, INC.

Order Allowing Certiorari. Filed April 29, 1974

The petitions for writs of certiorari are granted and the cases are set for oral argument in tandem.